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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

29601-29700

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FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent or, in one case, after trial by the court; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; and (3) injunction proceedings in which decrees of permanent injunction were entered. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

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GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *January 21, 1965.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 29601-29700

Adulteration, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(A), the article contained an added poisonous or deleterious substance, which was unsafe within the meaning of Section 406; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(a)(5), the article was in whole or in part the product of a diseased animal; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(3), inferiority had been concealed in some manner; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 406, a poisonous or deleterious substance was unsafe since such substance was not required in the production of food and could have been avoided by good manufacturing practice; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare, or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(c), the article was an imitation of another food, and its label failed to bear in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403(e)(2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g)(1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by

regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container: Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article; and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR*

29601. Flour. (F.D.C. No. 50298. S. No. 104-713 A.)

QUANTITY: 50 25-lb. bags at Seattle, Wash.

SHIPPED: 1-9-64, from Billings, Mont.

LIBELED: On or about 6-17-64, W. Dist. Wash.

CHARGE: 402(a) (2) (C)—while held for sale, contained pesticide chemicals, namely, lindane, and methoxychlor, which were food additives which were unsafe within the meaning of 409 since they and their use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 8-21-64. Default—destruction.

29602. Flour. (F.D.C. No. 49455. S. No. 65-745 X.)

QUANTITY: 65 25-lb. bags at Albany, Ga.

SHIPPED: 10-8-63, from Salina, Kans.

LIBELED: 11-21-63, M. Dist. Ga.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 2-11-64. Default—destruction.

29603. Flour. (F.D.C. No. 49678. S. Nos. 66-230/31 X, 66-233/35 X.)

QUANTITY: 14 2-lb. bags, 24 5-lb. bags, 64 bales, each containing 5 10-lb. bags, and 28 bales each containing 10 5-lb. bags of flour at Valdosta, Ga., in possession of A.S. Pendleton Co., Inc.

SHIPPED: Between 4-3-63 and 9-28-63, from Louisville, Ky., and Salina, Kans.

LIBELED: 1-6-64, M. Dist. Ga.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-2-64. Default—delivered to a charitable institution for use as animal feed.

29604. Flour. (F.D.C. No. 49791. S. No. 38-313 A.)

QUANTITY: 140 25-lb. bags at Henryetta, Okla., in possession of Boerstler Bros. Wholesale Grocery.

SHIPPED: 10-2-63 and 11-23-63, from Salina, Kans.

*See also Nos. 29629-29631, 29634, 29635.

LIBELED: 2-5-64, E. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-18-64. Default—destruction.

29605. Flour. (F.D.C. No. 49175. S. No. 56-784 V.)

INFORMATION FILED: 12-23-63, Dist. Mass., against Union Baking Corp., Somerville, Mass., and Samuel Shraiari, president and manager.

ALLEGED VIOLATIONS: Between 4-25-63 and 5-1-63, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused such article to be held in a building that was accessible to rodents and to insects and to be exposed to contamination by rodents, and by insects, by placing the flour in a rodent- and insect-contaminated flour conveying system, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodents, rodent excreta, rodent hair fragments, insects, and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-24-64. Each defendant fined \$250.

29606. Flour. (F.D.C. No. 50047. S. Nos. 69-805/06 A.)

QUANTITY: 17 100-lb. bags and 6 50-lb. bags, at Eureka, S. Dak., in possession of Eureka Equity Exchange, Inc.

SHIPPED: 8-19-63 and 9-19-63, from Minneapolis, Minn., and Jamestown, N. Dak.

LIBELED: 4-15-64, Dist. S. Dak.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-29-64. Consent—claimed by Eureka Equity Exchange, Inc., and denatured.

29607. Flour. (F.D.C. No. 49968. S. Nos. 96-565/71 A.)

QUANTITY: 376 100-lb. bags at Oakland, Calif., in possession of Daniel Gallagher Co.

SHIPPED: Between 8-29-63 and 1-31-64, from Portland, Oreg.; Spokane, Wash.; Billings, Mont.; and Great Falls, Mont.

LIBELED: 4-16-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-11-64. Consent—claimed by Daniel Gallagher Teaming, Mercantile & Realty Co., San Francisco, Calif. Reconditioned and segregated; 110 bags denatured for use as animal feed.

29608. Flour. (F.D.C. No. 50143. S. Nos. 1-104/6 A.)

QUANTITY: 16 25-lb. bags; 80 5-lb. bags; and 60 10-lb. bags at Atlanta, Ga., in possession of Kitchens Feed Milling, Inc.

SHIPPED: 4-21-64, from Atlanta, Ga.

LIBELED: 5-18-64, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-14-64. Default—destruction.

29609. Flour. (F.D.C. No. 50238. S. No. 35-041 A.)

QUANTITY: 280 100-lb. bags at Nashville, Tenn., in possession of Southland Mill & Elevator Co.

SHIPPED: 4-29-64, from Hopkinsville, Ky.

LIBELED: 6-29-64, M. Dist. Tenn.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets and had been rodent gnawed; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 7-21-64. Consent—claimed by C. C. Cowan, t/a Southland Mill & Elevator Co., Nashville, Tenn., Segregated; 15 bags denatured for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS***29610. Barley.** (F.D.C. No. 49595. S. No. 63-503 X.)

QUANTITY: 127,000 lbs. at Minneapolis, Minn.

SHIPPED: 12-23-63, from Langford, S. Dak., by Farmers Cooperative Grain Co.

LIBELED: 1-9-64, Dist. Minn.

CHARGE: 402(a) (2) (B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley had been prescribed by regulations.

DISPOSITION: 1-17-64. Consent—claimed by Farmers Cooperative Grain Co., Langford, S. Dak., and reconditioned by pearling; 15,070 lbs. destroyed.

29611. Rice. (F.D.C. No. 46726. S. No. 40-420 R.)

INFORMATION FILED: 5-7-62, W. Dist. La., against James B. Broussard, mill manager, Estherwood, La.

SHIPPED: 4-29-61, from Estherwood, La., to St. Louis, Mo.

CHARGE: 402(a) (3)—contained rodent excreta, rodent hairs, insects, and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-1-63. \$800 fine.

29612. Rice. (F.D.C. No. 49501. S. No. 3-162 X.)

QUANTITY: 27 100-lb. bags at Raleigh, N.C.

SHIPPED: 1-28-63, from Abbeville, La.

LIBELED: 11-7-63, E. Dist. N.C.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-8-64. Default—destruction.

29613. Rice. (F.D.C. No. 49632. S. Nos. 5-859 X, 5-862/3 X.)

QUANTITY: 27 cases, each containing 12 2-lb. pkgs.; 11 cases, each containing 24 12-oz. pkgs.; and 13 cases, each containing 12 3-lb. pkgs.; at Dunn, N.C.

SHIPPED: 3-11-63, from Stuttgart, Ark.

LIBELED: 1-6-64, E. Dist. N.C.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 6-12-64. Default—destruction.

*See also No. 29680.

29614. Rice, dried white beans, lima beans, lentils, and garbanzo beans. (F.D.C. No. 49105. S. Nos. 764/5 X, 770 X, 772 X, 776/7 X.)

QUANTITY: 160 100-lb. bags of rice; 17 bags each containing 12 1-lb. pkgs. of white beans; 8 bags each containing 12 1-lb. pkgs. of lima beans; 5 bags each containing 12 1-lb. pkgs. of lentils; 5 bags each containing 12 1-lb. pkgs. of garbanzo beans; at Miami, Fla., in possession of R. Lopez & Co.

SHIPPED: Between 1-1-63 and 7-5-63, from Beaumont, Tex., Denver, Colo., and from outside the United States.

LABEL IN PART: (Bags) "Granos Fiesta * * * Mediana [or "Habas Limas," "Lentejas," or "Garbanzos"] * * * Packed by Cadur Trading Corporation Miami, Florida."

RESULTS OF INVESTIGATION: The beans had been repacked into one-pound packages after shipment as above.

LIBELED: 9-3-63, S. Dist. Fla.

CHARGE: 402(a)(3)—the rice contained insects and insect frass, the garbanzo beans contained insect frass and insect-damaged beans, and all the other beans contained insects, insect frass, and insect-damaged beans; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: On or about 9-30-63, R. Lopez & Co. filed an answer which denied that the articles were adulterated. On or about 11-21-63, the Government served written interrogatories upon the claimant. On 5-12-64, the Government filed a motion to strike the answer of the claimant and entered a judgment by default against the claimant, on the ground that the claimant had failed to answer written interrogatories. On 5-22-64, the claimant not having appeared at the hearing held on the Government's motion, and the claimant having had approximately 6 months within which to answer the Government's written interrogatories and having failed to answer them, the court granted the Government's motion and a default decree of condemnation and destruction was filed.

29615. Wheat. (F.D.C. No. 46825. S. No. 51-025 T.)

QUANTITY: 108,960 lbs. at Spokane, Wash.

SHIPPED: 11-7-61, from Glasgow, Mont., by Farmers Union Grain Terminal Association.

LIBELED: 11-30-61, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-8-61. Consent—claimed by Farmers Union Grain Terminal Association and denatured for use as animal feed.

29616. Wheat. (F.D.C. No. 48668. S. No. 24-776 V.)

QUANTITY: 120,000 lbs. at Ottawa Lake, Mich.

SHIPPED: 12-27-62, from Fowler, Mich., by Farmer's Cooperative Elevator, and reshipped 1-7-63, from Toledo, Ohio, by Michigan Elevator Exchange.

LIBELED: 1-9-63, E. Dist., Mich.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-18-63. Consent—claimed by Farmer's Cooperative Elevator, Fowler, Mich., and reconditioned.

29617. Wheat. (F.D.C. No. 48513. S. No. 24-778 V.)

QUANTITY: 113,000 lbs. at Ottawa Lake, Mich.

SHIPPED: 12-27-62, from Montrose, Mich., by Frutchey Bean Co., to Toledo, Ohio, where it was reshipped on 1-7-63, to Ottawa Lake, Mich.

LIBELED: 1-9-63, E. Dist., Mich.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-20-63. Consent—claimed by Frutchey Bean Co., and reconditioned.

29618. Wheat. (F.D.C. No. 48683. S. No. 34-363 V.)

QUANTITY: 90,240 lbs. at Minneapolis, Minn.

SHIPPED: 1-2-63, from Onida, S. Dak., by Sully County Co-operative Association.

LIBELED: 1-22-63, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 1-28-63. Consent—claimed by Sully County Co-operative Association and denatured.

29619. Wheat. (F.D.C. No. 48692. S. Nos. 29-777 V, 55-721 V.)

QUANTITY: 242,400 lbs. at Kansas City, Mo.

SHIPPED: 1-21-63, from Dorchester, Nebr., by Dorchester Farmers Cooperative and 1-22-63, from Daykin, Nebr., by Farmers Cooperative Elevator Co.

LIBELED: 2-4-63, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-5-63. Consent—claimed by Mid-Continent Grain Co., Kansas City, Mo. Reconditioned; 27,910 lbs. segregated as unfit.

29620. Wheat. (F.D.C. No. 48734. S. No. 78-014 V.)

QUANTITY: 102,000 lbs. at Toledo, Ohio.

SHIPPED: 3-25-63, from Emmett, Mich., by Michigan Bean Co.

LIBELED: 4-2-63, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent excreta pellets.

DISPOSITION: 4-8-63. Consent—claimed by the Wickes Corp., Saginaw, Mich., and reconditioned.

29621. Wheat. (F.D.C. No. 48743. S. No. 57-420 V.)

QUANTITY: 110,400 lbs. at Minneapolis, Minn.

SHIPPED: 3-14-63, from Warner, S. Dak., by Warner Cooperative Elevator Co.

LIBELED: 4-8-63, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 5-16-63. Consent—claimed by Warner Cooperative Elevator Co. Segregated and reconditioned; 14,200 lbs. destroyed.

29622. Wheat. (F.D.C. No. 48758. S. No. 54-936 V.)

QUANTITY: 119,400 lbs. at Kansas City, Mo.

SHIPPED: 4-18-63, from Russell, Kans., by Norris Grain Co.

LIBELED: 4-29-63, W. Dist. Mo.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-16-63. Consent—claimed by Norris Grain Co. Reconditioned; 18,083 lbs. segregated as unfit.

29623. Wheat. (F.D.C. No. 49583. S. No. 92-270 X.)

QUANTITY: 131,130 lbs. at Minneapolis, Minn.

SHIPPED: 12-20-63, from Wall, S. Dak., by Tri State Milling Co.

LIBELED: 1-6-64, Dist. Minn.

CHARGE: 402(a) (2) (B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 1-16-64. Consent—claimed by Tri State Milling Co., Rapid City, S. Dak. Reconditioned and segregated; 18,750 lbs. destroyed.

29624. Wheat. (F.D.C. No. 49590. S. No. 56-086 A.)

QUANTITY: 123,700 lbs. at Kansas City, Kans.

SHIPPED: 12-28-63, from Byron, Nebr., by Byron Grain Co.

LIBELED: 1-13-64, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-5-64. Consent—claimed by Simonds-Shields-Theis Grain Co. Reconditioned, 3,870 lbs. segregated as unfit.

29625. Wheat. (F.D.C. No. 49834. S. No. 103-318 A.)

QUANTITY: 120,000 lbs. at Malden, Wash.

SHIPPED: 2-25-64, from Highwood, Mont., by J. R. Katzenberger.

LIBELED: 3-9-64, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-12-64. Consent—claimed by Atwood-Larson Co., Portland, Oreg., and denatured for use as animal feed.

29626. Wheat. (F.D.C. No. 49820. S. No. 55-967 A.)

QUANTITY: 120,000 lbs. at Kansas City, Kans.

SHIPPED: 2-18-64, from Minden, Nebr., by Farmers Elevator Federation.

LIBELED: 3-9-64, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-25-64. Consent—claimed by Farmers Co-op. Grain & Supply Co., Minden, Nebr. Reconditioned; 11,140 lbs. segregated as unfit.

29627. Wheat. (F.D.C. No. 49804. S. No. 56-150 A.)

QUANTITY: 115,500 lbs. at Kansas City, Kans.

SHIPPED: 2-5-64, from Milligan, Nebr., by Farmers Co-op Co.

LIBELED: 2-19-64, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-25-64. Consent—claimed by Farmers Co-op Co. Reconditioned and segregated; 17,630 lbs. denatured.

29628. Corn grits. (F.D.C. No. 50398. S. No. 25-099 A.)

QUANTITY: 28,000 lbs. at Chicago, Ill., in possession of Siebens Brewing Co.

SHIPPED: 6-13-64, from Milwaukee, Wis.

LIBELED: 7-21-64, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects, insect larvae, insect pupae, and insect webbing; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 7-24-63. Consent—destruction.

29629. Oatmeal, unpopped popcorn, and flour. (F.D.C. No. 49701. S. Nos. 54-685/7 X.)

INFORMATION FILED: 5-19-64, E. Dist. Tenn., against Kennedy, McHan, Campbell Co., Inc., t/a K.M.C. Co., Inc., Knoxville, Tenn.

ALLEGED VIOLATION: Between 3-19-63 and 8-8-63, while quantities of oatmeal cereal, popcorn, and flour were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects, rodent pellets, rodent hairs, and mammalian urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-25-64. \$300 fine.

29630. Bran and flour. (F.D.C. No. 50044. S. Nos. 61-537 A, 61-539 A.)

QUANTITY: 46 50-lb. bags of bran, and 42 100-lb. bags of flour at Vernon, Calif., in possession of Centennial Mills, Inc.

SHIPPED: 2-17-64 and 12-27-63, from Spokane, Wash.

LIBELED: 4-8-64, S. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-5-64. Default—destruction.

29631. Pancake mix, dried pinto beans, macaroni, and flour. (F.D.C. No. 49624. S. Nos. 47-141/6 X, 47-148/9 X, 47-154/6 X.)

QUANTITY: 28 cases, each containing 24 1-lb. pkgs.; 13 cases, each containing 12 2-lb. pkgs.; 20 cases, each containing 12 3-lb. pkgs. of pancake mix; 20 cases, each containing 6 10-lb. bags of pinto beans; 5 cases, each containing 24 10-oz. bags of macaroni; 19 50-lb. bags, and 54 25-lb. bags of flour; at Morrilton, Ark., in possession of Arkansas Valley Wholesale Grocer Co.

SHIPPED: (Pancake mix) 9-19-63 and 10-1-63; (pinto beans) 6-27-63; (macaroni) 11-26-62; (flour) 8-21-63 and 8-29-63; from Minneapolis, Minn.; Denver, Colo.; Kansas City, Mo.; McPherson, Kans.; and Yukon, Okla.

LIBELED: 12-4-63, E. Dist. Ark.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-16-63. Consent—delivered to a charitable institution for use as animal feed.

29632. Pancake, waffle, and cake mixes, ice cream cones, and bread crumbs. (F.D.C. No. 49682. S. Nos. 26-272/73 X, 26-276/77 X, 26-522 X, 26-524 X.)

INFORMATION FILED: 3-5-64, N. Dist. Ind., against Allen County Food Distributors, Fort Wayne, Ind., a partnership, and John Schmitz and Max T. Schmitz, partners.

ALLEGED VIOLATIONS: Between 6-20-59 and 8-14-63, while the articles were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-24-64. Each defendant fined \$600, plus costs.

29633. Hot roll mix and macaroni. (F.D.C. No. 47064. S. Nos. 16-000 R, 63-338 R.)

INFORMATION FILED: 6-11-62, E. Dist. Tenn., against Cas Walker's Cash Stores, Inc., Knoxville, Tenn.

ALLEGED VIOLATIONS: Between 9-3-59 and 6-2-61, while quantities of hot roll mix and elbow macaroni were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects which acts resulted in the articles being adulterated.

CHARGE: 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-1-63. \$200 fine.

29634. Cake mix, flour, pie flour, and cornmeal. (F.D.C. No. 49679. S. Nos. 93-442/3 X, 93-445 X, 93-447 X.)

QUANTITY: 12 50-lb. bags of cake mix; 171 100-lb. bags of flour; 328 100-lb. bags of pie flour, and 83 100-lb. bags of cornmeal; at Cambridge, Mass., in possession of Allied Bakers Supply, Inc.

SHIPPED: Between 9-6-63 and 10-23-63, from Buffalo, N.Y., Sheridan, Wyo., Portland, Oreg., and Nappanee, Ind.

LIBELED: 1-9-64, Dist. Mass.

CHARGE: 402(a)(3)—the articles contained rodent urine, a dead rodent, and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-25-64. Consent—claimed by Allied Bakers Supply, Inc. Segregated; 9 bags of cake mix, 41 bags of flour, 57 bags of pie flour, and 14 bags of cornmeal denatured.

29635. Popcorn, cornmeal, grits, wheat gluten, flour, dried beans, sugar, salt, and animal feeds. (Inj. No. 486.)

COMPLAINT FOR INJUNCTION FILED: 4-28-64, N. Dist. Ga., against Cochran Exterminating Co., Inc., Atlanta, Ga., and Claude Cochran, president.

CHARGE: The complaint alleged that the defendants were engaged in the business of providing exterminator and pest-control services for food storage warehouses, wholesale grocery firms, and other food establishments which store and sell articles such as popcorn, cornmeal, grits, wheat gluten, flour, dried

beans, sugar, salt, and animal feeds; that defendants' services were provided in Atlanta and elsewhere within the State of Georgia; that in the providing of those services, the defendants were causing quantities of a water solution of a poisonous rodenticide, sodium fluoroacetate, commonly known as compound "1080" to be placed in and about food establishments in Atlanta, and elsewhere within the State of Georgia, under conditions whereby foods in such food establishments may become contaminated with poison; and that this poison had no known antidote.

The complaint alleged further that the act of causing such water solution of compound "1080" to be placed in such food establishments resulted in such foods being adulterated within the meaning of Section 402(a)(4) in that such foods were being held under insanitary conditions whereby they may have been rendered injurious to health; that insanitary conditions in such food establishments in Atlanta, and elsewhere in the State of Georgia, whereby such foods may have been rendered injurious to health resulted from and consisted of the placement of uncovered paper bait cups containing a water solution of compound "1080" in and about such food establishments and in close proximity to such foods; that the defendants violated the law by their acts of causing a water solution of compound "1080" to be placed in and about such food establishments, in that such acts were done while such foods in such food establishments were being held for sale after shipment in interstate commerce and resulted in such foods being adulterated within the meaning of Section 402(a)(4) because of being held under insanitary conditions whereby they may have been rendered injurious to health.

The complaint alleged that the defendants were well aware that their activities were in violation of the Federal Food, Drug, and Cosmetic Act, that between 1-13-59 and 1-14-64, inspectors of the Food and Drug Administration made four inspections of three different food establishments serviced by the defendants in Atlanta and Toccoa, Ga., that each inspection disclosed open unprotected paper cups containing residues of compound "1080," that on 5-3-60 and 11-27-63, notices of hearing were issued to the defendants, pursuant to which the hearings prescribed by law were held; that the defendant, Claude Cochran, was present at both such hearings and was advised concerning the inherent dangers in the careless use of compound "1080" in food establishments; and that despite the warnings conveyed by the aforesaid inspections, notices of hearing, and hearings, the defendants failed to correct the careless use of compound "1080."

DISPOSITION: On 5-18-64, a consent decree of permanent injunction was entered which provided that the defendants be perpetually enjoined and restrained from doing any of the following acts in food establishments serviced by the defendants with respect to foods held for sale after shipment in interstate commerce:

(1) Doing or causing to be done any act which resulted in foods being held under insanitary conditions whereby they may be rendered injurious to health, and

(2) Placing or causing to be placed in any building any quantity of the rodenticide compound "1080" while such building is being used for the storage of foods unless and until:

(a) All personnel in the buildings serviced were made fully aware that the rodenticide compound "1080" was being used and were fully informed of its highly toxic nature and of the necessity for protecting stored foods from contamination by it;

(b) Compound "1080" was dispensed only in protected bait stations, firmly attached to the building or otherwise secured against being overturned; the bait stations were kept locked or serviced regularly with written records maintained concerning the servicing operations; the bait stations were constructed so as to provide for the adequate and secure containment, by blotting, by a leak-proof receptacle, or by other means, of any compound "1080" which might be spilled and to provide that no compound "1080" would come in contact with or be mingled with any article of food;

(c) Compound "1080" was prepared by the defendants and their officers, agents, servants, employees, representatives, and all persons in active concert or participation with them or any of them, at their place of business and was colored with 0.5% Nigrosine black dye;

(d) Responsibility for control of compound "1080" in use in such buildings was vested in one person of established reliability, and this person was fully informed as to the acceptable procedures for use of compound "1080" and as to the potential hazards of careless use; and

(e) Such other precautions were taken by the defendants as were necessary to keep all foods in such buildings safe from contamination by compound "1080"; and

That all foods held in food establishments serviced by the defendants be examined and that the portions thereof which were contaminated with such rodenticide be destroyed under the supervision of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act, all costs to be borne by the defendants.

29636. Unpopped popcorn. (F.D.C. No. 49836. S. Nos. 6-424/25 A.)

QUANTITY: 77 cases of 12 2-lb. bags each, and 22 cases of 6 4-lb. bags at Roanoke, Va.

SHIPPED: 10-22-62, from Murray, Ky.

LIBELED: 3-17-64, W. Dist. Va.

CHARGE: 402(a) (3)—contained live and dead insects, insect fragments, and insect frass, while held for sale.

DISPOSITION: 4-24-64. Default—ordered delivered to a public institution for use as animal feed.

29637. Unpopped popcorn. (F.D.C. No. 49385. S. Nos. 31-073/4 X.)

QUANTITY: 131 50-lb. bags, and 13 100-lb. bags at Los Angeles, Calif.

SHIPPED: From 6-29-63 to 7-23-63, from Milford, Ill., by Alver Bros. Co.

LABEL IN PART: (Bag) "Premier 404 Popcorn Alver Brothers Company Distributors Milford, Illinois [or "Processed by Alver Popcorn Company, Watseka, Ill."]."

LIBELED: 10-8-63, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects and/or rodent excreta pellets; and 402 (a) (4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 11-20-63. Default—destruction.

CONFECTIONERY

29638. Chocolate peanut clusters. (F.D.C. No. 48922. S. Nos. 2-207 V, 15-066 V, 16-273 V.)

INFORMATION FILED: 8-6-63, M. Dist. Ga., against Tom Huston Peanut Co., Macon, Ga.

SHIPPED: 9-24-62, from the State of Georgia to the States of North Carolina, Tennessee, and Kentucky.

LABEL IN PART: (Box) "Tom's Chocolate Peanut Clusters Net Wt. 6 Oz. Dist. by Tom Huston Peanut Co., Inc."

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-28-64. \$300 fine.

29639. Watermelon Slices (candy). (F.D.C. No. 46242. S. No. 91-738 R.)

QUANTITY: 93 cases of 24 pkgs. each, at Elizabeth, N.J.

SHIPPED: 7-13-61, from Lancaster, Pa., by Keppel's, Inc.

LABEL IN PART: (Pkg.) "Keppel's Watermelon Slices 20 Pieces Tasty Coconut, Keppel's Inc., Lancaster, Pa. 5½ Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-10-61, Dist. N.J.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-13-61. Consent—claimed by shipper for relabeling.

29640. Nut-butter Crunch. (F.D.C. No. 49916. S. No. 701 A.)

QUANTITY: 1,008 12-oz. cans at Starke, Fla.

SHIPPED: 1-21-64, from Eastman, Ga., by Stuckey's, Inc.

LABEL IN PART: (Can) "Stuckey's Old Fashioned Nut-butter Crunch, Eastman, Georgia."

LIBELED: 3-12-64, M. Dist. Fla.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-4-64. Default—destruction.

EGGS

29641. Frozen eggs. (F.D.C. No. 49339. S. No. 39-191 X.)

QUANTITY: 315 30-lb. cans at Bronx, N.Y.

SHIPPED: 7-25-63, from The Rock, Ga., by Flintridge Egg Farms, Inc.

LABEL IN PART: (Can) "Whole Eggs * * * Produced by Flintridge Egg Farms, Inc. The Rock, Georgia."

LIBELED: 9-30-63, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 12-13-63. Consent—claimed by Flintridge Egg Farms, Inc. Segregated; 56 cans denatured.

29642. Frozen eggs. (F.D.C. No. 49464. S. No. 41-845 X.)

QUANTITY: 362 30-lb. cans at New York, N.Y.

SHIPPED: 8-27-63 and 9-5-63, from Clifton, N.J., by John Tensen.

LABEL IN PART: (Can lid) "Whole Eggs packed by Tensen."

LIBELED: 10-15-63, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 12-24-63. Consent—claimed by John Tensen, Clifton, N.J. Segregated; 190 cans denatured.

29643. Frozen eggs. (F.D.C. No. 49628. S. Nos. 51-332/3 X, 51-335 X.)

QUANTITY: 2 30-lb. cans at Great Falls, Mont.; 5 30-lb. cans at Whitefish, Mont.; and 1 30-lb. can at Kalispell, Mont.

SHIPPED: 7-17-62 and 8-2-63, from Spokane, Wash., by Commercial Creamery Co.

LABEL IN PART: (Can) "Washington State Brand Frozen Eggs Whole * * * Commercial Creamery Company Spokane, Wash."

LIBELED: 12-2-63, Dist. Mont.

CHARGE: 402(a)(1)—when shipped, the article contained a poisonous or deleterious substance, namely, salmonella micro-organisms, which may render it injurious to health.

DISPOSITION: 1-6-64. Default—destruction.

29644. Frozen egg whites. (F.D.C. No. 49576. S. Nos. 35-734 X, 35-737 X.)

QUANTITY: 96 30-lb. cans at Minneapolis, Minn.

SHIPPED: The article was prepared in part from shell eggs shipped 9-17-63, from Eureka, S. Dak.

LABEL IN PART: (Can) "Emulsol-Brand The Emulsol Egg Products Corporation, * * * Chicago 2, Ill. Egg Whites."

RESULTS OF INVESTIGATION: Inspection of the packer, Wright County Poultry & Egg Co., Buffalo, Minn., showed that the article was prepared and packed under insanitary conditions and in part from cracked and broken shell eggs bearing fecal material.

LIBELED: 12-31-63, Dist. Minn.

CHARGE: 402(a)(1)—contained salmonella micro-organisms; 402(a)(3)—contained fecal material; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-21-64. Consent—claimed by Wright County Poultry & Egg Co., and denatured for technical use.

29645. Frozen eggs. (F.D.C. No. 49674. S. No. 70-075 X.)

QUANTITY: 250 30-lb. cans at Boston, Mass.

SHIPPED: 10-17-63, from Chicago, Ill., by L. D. Schreiber & Co., Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs Olson Brothers, Inc."

LIBELED: 1-7-64, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 2-13-64. Consent—claimed by L. D. Schreiber & Co., Inc. Segregated; 50 cans destroyed.

29646. Frozen eggs. (F.D.C. No. 49474. S. No. 41-850 X.)

QUANTITY: 37 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 9-23-63, from Perth Amboy, N.J., by Adler Egg Co.

LABEL IN PART: (Can lid) "Royal Crown Whole Eggs Net Weight * * *
Adler Egg Co. Perth Amboy, N.J."

LIBELED: 10-21-63, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-30-64. Content—claimed by Adler Egg Co. Segregated; 24
cans denatured.

29647. Frozen eggs. (F.D.C. No. 49759. S. Nos. 32-301/3 A.)

QUANTITY: 102 cans, at Lexington, Ky., in possession of Southern Ice & Cold
Storage Co.

SHIPPED: Between 11-22-63 and 1-3-64, from Morristown, Tenn., by (64-can
lot) Burnett Produce Co., and from Huntingburg, Ind.

LABEL IN PART: (some of the 64-can lot) "Fancy Whole Eggs Packed by
Burnett Prod. Co. Morristown, Tenn."

RESULTS OF INVESTIGATION: A 4-can lot of the article had been manufactured
by the dealer in part from shell eggs shipped from Huntingburg, Ind., as above.

LIBELED: 1-31-64, E. Dist. Ky.

CHARGE: 402(a)(3)—when the 64-can lot of the article was shipped and while
the rest of the article was held for sale, the article contained decomposed eggs.

DISPOSITION: 4-27-64. Default—destruction.

29648. Frozen eggs. (F.D.C. No. 49676. S. Nos. 39-194 X, 41-964 X.)

QUANTITY: 145 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 12-4-63, from Burgaw, N.C., by Carlisle Poultry & Egg Association,
Inc.

LABEL IN PART: (Can) "Whole Eggs L. Rudolf Co., Inc." and "Carlisle Poul-
try & Egg Assoc. Inc. Burgaw, North Carolina."

LIBELED: 1-10-64, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 5-7-64. Default—destruction.

29649. Frozen eggs. (F.D.C. No. 50219. S. No. 43-154 A.)

QUANTITY: 4 30-lb. cans at Ogden, Utah.

SHIPPED: 10-10-63, from Lindsay, Calif., by Marlow Egg Farms.

LABEL IN PART: (Can) "Marlow's Frozen Whole—Fresh Eggs * * * Marlow
Egg Farms * * * Lindsay, California."

LIBELED: 6-2-64, Dist. Utah.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 8-3-64. Default—destruction.

FEEDS AND GRAINS*

29650. Animal feeds. (Inj. No. 416.)

COMPLAINT FOR INJUNCTION FILED: 9-13-61, N. Dist. N.Y., against Elmore Mil-
ling Co., Inc., Oneonta, N.Y.

*See also No. 29635.

CHARGE: The complaint alleged that the defendant was engaged in the business of manufacturing, preparing, packing, selling, and shipping in interstate commerce, articles of food which were adulterated and misbranded, and that the defendant was doing certain acts which resulted in the adulteration and misbranding of articles of food which were held for sale by the defendant after shipment in interstate commerce.

The complaint alleged that various of the articles of food, when shipped and while held for sale, were adulterated and misbranded in the following respects: (i) 402(a)(1)—contained poisonous and deleterious substances which may render them injurious to health; (ii) 402(a)(2)(A)—contained added poisonous and deleterious substances which were unsafe within the meaning of section 406; (iii) 403(a)—the labeling of a number of the articles contained false and misleading statements with respect to the nature and quantity of the ingredients contained in the articles; and (iv) 403(e)(2)—their labels failed to contain an accurate statement of the quantity of the contents in terms of weight and measure.

The complaint alleged further that the adulterated and misbranded conditions of the articles of food resulted from deficiencies in the ingredients of the articles, or the presence in the articles of ingredients in excess of the amounts declared or represented to be present, which were due to inadequate manufacturing facilities, lack of ingredient and product identification, lack of production controls, lack of adequate analysis and formulas, or lack of other precautions essential to the manufacture and preparation of such foods; for example, the *Elmore Hog Ration (Unmedicated)* had no declaration of arsanilic acid, but was found to contain .0070%, .0074%, .0081%, and .0089% of that drug (in different batches).

The complaint alleged also adulterations and misbrandings with respect to drugs shipped and held for sale by the defendant, as reported in notices of judgment on drugs and devices, No. 7782.

The complaint alleged further that the defendant was well aware that its activities were violative of the Federal Food, Drug, and Cosmetic Act; that the defendant had been warned; and that despite the warnings, the defendant continued to introduce and cause to be delivered for introduction into interstate commerce articles of food and drug which were adulterated and misbranded, and continued to do certain acts, while articles of food and drug were held for sale after shipment in interstate commerce, which resulted in articles of food and drug being adulterated and misbranded.

DISPOSITION: On 12-7-61, a consent decree of permanent injunction was filed pursuant to which the defendant was perpetually restrained and enjoined:

1. From shipping any food or drug adulterated or misbranded as complained of, because of deficiency or excess in the amounts of declared ingredients or other specified inadequacies in their manufacture and preparation;

2. From doing any act with respect to any article of food or drug while held for sale after shipment in interstate commerce, which results in any such article being misbranded or adulterated as above;

3. From preparing, shipping, selling, or delivering any of the feed products unless and until it had accomplished a specified segregation of ingredients and products, and had cleaned its plant equipment; and

4. From shipping any of its medicated feed products in interstate commerce or doing any act with respect to any article of food or drug while held for sale

after shipment in interstate commerce, unless and until specified facilities, controls and precautions were installed, and a report verifying the accomplishment of the improvements had been made to the court.

29651. Alfalfa hay. (F.D.C. No. 49317. S. No. 31-886 X.)

QUANTITY: 18 tons, in 286 bales, at El Cajon, Calif.

SHIPPED: 8-27-63, from Somerton, Ariz., by Bud Ammons.

LIBELED: 9-13-63, S. Dist. Calif.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, namely, DDT and DDE, which were unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemicals on alfalfa hay had been prescribed by regulations.

DISPOSITION: 3-17-64. Consent—claimed by Howard R. Gwynn, Yuma, Ariz., for conversion into feed for horses.

29652. Medicated feed. (F.D.C. No. 49459. S. No. 95-903 V.)

QUANTITY: 4 60-lb. bags at Redlands, Calif.

SHIPPED: 2-28-63, from Chicago, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the vitamin A, and vitamin C, 13 percent of the vitamin D, and 10 percent of the vitamin B₁, declared on the label.

LIBELED: 11-22-63, S. Dist. Calif.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin A, vitamin D, vitamin C and vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statements "Analysis (Per Pound) * * * Vitamin A 400,000 USP Units Vitamin D 160,000 I.C. Units * * * Vitamin C 840 Mgm. * * * Vitamin B-1 240 Mgm" were false and misleading.

DISPOSITION: 2-4-64. Consent—claimed by Redlum Research Corp., Redlands, Calif.; 4 5-lb. bags released to claimant for analysis and the remainder destroyed.

29653. Medicated feed. (F.D.C. No. 49792. S. No. 58-461 X.)

QUANTITY: 30 60-lb. bags, at Imperial, Calif.

SHIPPED: 6-28-63, from Chicago, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 0.1 percent of the declared amount of vitamin A.

LIBELED: 2-10-64, S. Dist. Calif.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, namely, vitamin A, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statement "Guaranteed Analysis Per One Pound Vitamin A, I. or USP units 400,000" was false and misleading as applied to a product containing less than the declared amounts of this ingredient.

DISPOSITION: 4-6-64. Consent—claimed by Imperial Cattle Co., Imperial, Calif. The decree provided that a sample consisting of up to 5 lbs. from each of the bags seized could be obtained by the claimant and that the remainder of the article be destroyed.

29654. Poultry and turkey premix. (F.D.C. No. 50046. S. No. 37-141 A.)

QUANTITY: 5 bales, each containing 12 5-lb. bags, at McAlester, Okla.

SHIPPED: 5-27-63, from Fort Worth, Tex.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 75 percent of the declared amount of vitamin A.

LIBELED: 4-21-64, E. Dist. Okla.

CHARGE: 402(b) (1)—while held for sale, the valuable constituent, vitamin A, had been in part omitted or abstracted from the article; and 403(a)—the labeling statement of the article (potencies sheet) "Guaranteed Potencies Per Pound Vitamin A U.S.P. Units 800,000" was false and misleading as applied to a product containing less than the declared amount of vitamin A.

DISPOSITION: 5-20-64. Default—destruction.

FISH AND SHELLFISH

29655. Frozen flounder. (F.D.C. No. 50278. S. No. 37-255 A.)

QUANTITY: 53 15-lb. cases at Houston, Tex.

SHIPPED: Between 2-19-64 and 4-23-64, from Bayou La Batre, Ala., by Ramos Shrimp Co.

LABEL IN PART: (Case) "Coffee Island Frozen Flounder * * * Packed by Ramos Shrimp Company, Bayou La Batre, Alabama."

LIBELED: 6-1-64, S. Dist. Tex.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 7-10-64. Default—destruction.

29656. Frozen flounder. (F.D.C. No. 50089. S. Nos. 86-704/5 A.)

QUANTITY: 42 15-lb. cases at Memphis, Tenn.

SHIPPED: 4-30-64, from Bayou La Batre, Ala., by Ramos Shrimp Co.

LABEL IN PART: (Case) "Frozen Flounder * * * Coffee Island Brand * * * Packed by Ramos Shrimp Company, Bayou La Batre, Alabama."

LIBELED: 5-19-64, W. Dist. Tenn.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 6-22-64. Default—destruction.

29657. Frozen flounder. (F.D.C. No. 50154. S. No. 74-610 A.)

QUANTITY: 35 15-lb. cases at Pensacola, Fla.

SHIPPED: 5-6-64, from Bayou La Batre, Ala., by Ramos Shrimp Co.

LABEL IN PART: (Case) "Coffee Island Brand Frozen Flounder Packed by Ramos Shrimp Co. Bayou La Batre."

LIBELED: 5-26-64, N. Dist. Fla.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 6-30-64. Default—destruction.

29658. Frozen flounder. (F.D.C. No. 50214. S. No. 86-342 A.)

QUANTITY: 33 15-lb. boxes at Memphis, Tenn.

SHIPPED: 5-12-64, from Bayou La Batre, Ala., by Ramos Shrimp Co.

LABEL IN PART: (Box) "Coffee Island Frozen Flounder * * * Packed by Ramos Shrimp Company, Bayou La Batre, Alabama"; and (bag) "Coffee Island Brand Frozen Flounder Dressed."

LIBELED: 5-28-64, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 6-30-64. Default—denatured.

29659. Frozen flounder. (F.D.C. No. 50095. S. No. 74-498 A.)

QUANTITY: 27 15-lb. cases at New Orleans, La.

SHIPPED: 5-11-64, from Bayou La Batre, Ala., by Ramos Shrimp Co.

LABEL IN PART: (Case) "Coffee Island Frozen Flounder * * * Packed by Ramos Shrimp Company Bayou La Batre, Ala."

LIBELED: 5-15-64, E. Dist. La.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 7-28-64. Default—destruction.

29660. Frozen flounder. (F.D.C. No. 50210. S. Nos. 72-132/33 A.)

QUANTITY: 1,951 lbs., at Bayou La Batre, Ala.

SHIPPED: Between 10-14-63 and 11-18-63, from New York, N.Y.

LIBELED: 5-22-64, S. Dist. Ala.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 6-22-64. Default—destruction.

29661. Frozen haddock fillets. (F.D.C. No. 50000. S. No. 12-914 A.)

QUANTITY: 299 12-lb. ctns. at Boston, Mass.

SHIPPED: The article was from fish caught by fishing vessel "Massachusetts" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts and landed and unloaded at Boston, Mass., on or about 4-14-64.

LIBELED: 4-24-64, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish fillets when shipped.

DISPOSITION: 6-29-64. Default—destruction.

29662. Frozen ocean perch fillets. (F.D.C. No. 49979. S. No. 12-202 A.)

QUANTITY: 772 cases, each containing 12 1-lb. ctns., at Gloucester, Mass.

SHIPPED: The article was from fish caught by fishing vessel "Kennebec" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, and landed and unloaded at Gloucester, Mass., on or about 3-26-64.

LIBELED: 4-17-64, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 5-13-64. Consent—claimed by Booth Fisheries Corp., Gloucester, Mass. Reconditioned; approximately 1,788 lbs. segregated as unfit.

29663. Frozen ocean perch fillets. (F.D.C. No. 50123. S. No. 14-264 A.)

QUANTITY: 546 ctns., each containing 12 1-lb. pkgs., at Gloucester, Mass.

SHIPPED: The article had been prepared and packed by Empire Fish Co., Inc., Gloucester, Mass., from fish caught by fishing vessels "St. Rosalie" and "Serafina II" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts.

LIBELED: 5-12-64, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 6-30-64. Default—destruction.

29664. Frozen pollock fillets. (F.D.C. No. 48919. S. No. 18-299 V.)

INDICTMENT RETURNED: 9-10-63, S. Dist. Tex., against Magnolia Seafood Co., Inc., Houston, Tex., and Joe Genitempo, Sr.

ALLEGED VIOLATION: While a quantity of pollock fillets were being held for sale at Houston, Tex., after shipment in interstate commerce, the defendants caused the article to be offered for sale and sold as cod fillets, which act caused the article to be adulterated and misbranded.

LABEL IN PART: (Cases) "Cod Magnolia Seafood Co. Houston, Texas."

CHARGE: 402(b)(2)—while held for sale, pollock fillets had been substituted for cod fillets; 403(a)—the statement "cod" on the case labels was false and misleading in that the statement represented and suggested that the article was cod, whereas, it was pollock fillets, 403(b)—the article was offered for sale under the name of another food, namely, cod fillets; and 403(i)(1)—the label of the article failed to bear the common or usual name of the food, namely, pollock fillets.

PLEA: Guilty.

DISPOSITION: 11-1-63. Corporation—\$2,000 fine; individual—\$1,000 fine.

29665. Fresh shad roe. (F.D.C. No. 50097. S. No. 62-941 A.)

QUANTITY: Approximately 100 lbs. in unlabeled 25-lb. tin containers, at Beverly Hills, Calif.

SHIPPED: 4-29-64, from New York, N.Y., by Regal Lobster Co.

LIBELED: 5-19-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained decomposed shad roe when shipped.

DISPOSITION: 6-16-64. Default—destruction.

29666. Canned tuna. (F.D.C. No. 49664. S. No. 13-793 X.)

QUANTITY: 149 bundles of 2 ctns., each containing 4-lb. 2½-oz. cans, at Chicago, Ill.

SHIPPED: 7-15-63, from New York, N.Y.

LIBELED: 12-31-63, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 2-24-64. Consent—claimed by C. F. Emling Co., Chicago, Ill. Segregated; 104 cans destroyed.

29667. Frozen smelt. (F.D.C. No. 49815. S. No. 49-842 A.)

QUANTITY: 100 ctns., each containing 10 5-lb. boxes, at Detroit, Mich.

SHIPPED: 9-14-62, from Erieau, Canada, by Pejay Packing Co., Ltd.

LABEL IN PART: (Ctn.) "Dressed Smelt Frozen * * * Packed by Pejay Packing Company, Ltd. Erieau, Ontario."

LIBELED: 2-25-64, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 7-23-64. Consent—claimed by J. Kozloff Fish Distributors, Inc., Detroit, Mich., for export to shipper.

29668. Frozen trout. (F.D.C. No. 50211. S. No. 44-064 A.)

QUANTITY: 15 cases, each containing 105-lb. ctns., at Denver, Colo.

SHIPPED: 2-29-64, from Wendell, Idaho, by Rim View Trout Co., Inc.

LABEL IN PART: (Bag) "Idaho's Best Rim View Trout Co., Inc., Rainbow Trout, Wendell, Idaho"; and (ctn.) "Rocky Mountain Rainbow * * * Fresh Frozen * * * Produced and Packed by Rim View Trout Co., Inc. Wendell, Idaho."

RESULTS OF INVESTIGATION: Examination showed that the fish were diseased, as evidenced by scoliosis and the presence of ichthyosporidium organisms in the tissues of the fish.

LIBELED: 5-26-64, Dist. Colo.

CHARGE: 402(a) (5)—the article was in whole or in part the product of a diseased animal when shipped.

DISPOSITION: 7-7-64. Default—destruction.

29669. Canned shrimp. (F.D.C. No. 47455. S. No. 53-293 T.)

QUANTITY: 1,086 cases, each containing 24 4½-oz. cans, at Portland, Oreg.

SHIPPED: 2-15-62, from Seattle, Wash., by Whiz Fish Products Co.

LABEL IN PART: (Can) "Pacific Brand Cleaned Cocktail Shrimp Wet Pack * * * Packed for Kay Sales Company, Portland, Oregon."

RESULTS OF INVESTIGATION: Examination showed that approximately one-half of the product was broken shrimp and the article failed to comply with the standard of fill of container for canned wet pack shrimp.

LIBELED: 4-17-62, Dist. Oreg.

CHARGE: 402(b) (2)—when shipped, broken shrimp had been substituted in part for whole shrimp; 403(a)—the label statement "Shrimp" was false and misleading as applied to a product consisting in part of broken shrimp; 403 (h) (2)—the article fell below the standard of fill of nontransparent containers for canned wet pack shrimp in that the cutout weight of the shrimp taken from each can was less than 64 percent of the water capacity of the container and its label failed to bear a statement that it fell below the standard; and 403(i) (2)—the label failed to bear the common or usual name of each ingredient since water and salt were not declared.

DISPOSITION: 6-18-62. Consent—claimed by King Crab Inc., Kodiak, Alaska, and relabeled.

29670. Frozen shrimp. (F.D.C. No. 50228. S. No. 71-304 A.)

QUANTITY: 24 ctns., each containing 10 5-lb. boxes, at Minneapolis, Minn.

SHIPPED: 5-5-64, from Winnipeg, Canada, for Bon Secour Fisheries, Bon Secour, Ala. This was a return shipment.

LABEL IN PART: (Ctn.) "Bon Secour Shrimp White."

LIBELED: 6-15-64, Dist. Minn.

CHARGE: 402(a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 7-30-64. Default—denatured for use as animal feed.

29671. Frozen canned oysters. (F.D.C. No. 49063. S. No. 76-800 V.)

QUANTITY: 57 cases, of 12 12-oz. cans, at Des Moines, Iowa.

SHIPPED: 3-9-63, from Tilghman, Md., by Tilghman Packing Co.

LABEL IN PART: (Can) "Tilghman Brand Frozen Oysters * * * Packed by The Tilghman Packing Company Tilghman, Maryland."

RESULTS OF INVESTIGATION: Examination showed the average drained liquid to be 40.7 percent.

LIBELED: 8-5-63, S. Dist. Iowa.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for oysters; 403(a)—the label statement “Oysters” was false and misleading as applied to a product consisting in part of water; and 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient, since added water had not been declared.

DISPOSITION: 9-23-63. Consent—claimed by Tilghman Packing Co., and destroyed.

FRUITS AND VEGETABLES

FRUIT BUTTER AND PRESERVES

29672. Apple butter. (F.D.C. No. 49051. S. No. 47-603 X.)

QUANTITY: 79 cases, 12 1-lb. 9-oz. jars each, at Memphis, Tenn.

SHIPPED: 5-29-63, from St. Louis, Mo., by Blanke-Baer Extract & Preserving Co.

LABEL IN PART: (Jar) “Win-You Pure Apple Butter * * * Blanke-Baer Extract & Preserving Co., St. Louis, Mo.”

LIBELED: 7-22-63, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained sand and was gritty, when shipped.

DISPOSITION: On 10-16-63, Blanke-Baer Extract & Preserving Co. claimed the article and filed an answer denying that the article was adulterated. On 12-31-63, the Government served interrogatories on the claimant. On 2-19-64, the claimant served interrogatories on the Government. Thereafter both parties filed answers to some of the interrogatories. On 6-30-64, the claimant abandoned its claim to the article, and a consent decree of condemnation and destruction was entered.

29673. Imitation red raspberry preserves. (F.D.C. No. 47814. S. No. 70-633 T.)

QUANTITY: 49 cases, 12 jars each, at Minneapolis, Minn.

SHIPPED: 1-29-62, from Fargo, N. Dak.

LIBELED: 8-1-62, Dist. Minn.

CHARGE: 402(a)(3)—while held for sale, contained mold.

DISPOSITION: 9-26-62. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

29674. Canned grapefruit juice (3 seizure actions). (F.D.C., Nos. 46329, 46444, 46469. S. Nos. 16-624 R; 46-045/6 R; 3-612 R, 4-661 T.)

QUANTITY: 16, 183 cases, 12 1-qt. 14-oz. cans each, at Columbus, Ohio; 12,014 cases, 12 1-qt. 14-oz. cans each, at Forest Park, Ga.; and 1,182 cases, 12 1-qt. 14-oz. cans each; at Norfolk, Va.

SHIPPED: Between 3-1-61 and 3-21-61, from Howey In The Hills, Fla., by General Juices Corp.

LABEL IN PART: (Can) “Life Guard Brand Unsweetened Florida Grapefruit Juice Contents * * * General Juices Corporation, Howey In The Hills, Florida.”

CHARGE: 402(b)(3)—when shipped, the inferiority of the article had been concealed by the addition of an alkaline sodium compound; 402(b)(4)—an

alkaline sodium compound had been added to the article so as to make it appear better or of greater value than it was, namely, to make it appear to be the juice from mature fruit; and 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient.

LIBELED: 9-6-61, S. Dist. Ohio; 9-11-61, N. Dist. Ga.; and 10-2-61, E. Dist. Va.

DISPOSITION: On 10-16-61 and 10-19-61, respectively, after the articles seized at Forest Park, Ga., and Columbus, Ohio, had been claimed by General Juices Corp., both the case in the Northern District of Georgia and the case in the Southern District of Ohio were removed to the Eastern District of Virginia. On 4-2-62, after the article seized at Norfolk, Va., had also been claimed by General Juice Corp., a consent decree of condemnation was entered in that case which permitted the segregation of that article and the bringing of that article into compliance with law. On 7-31-62, similar consent decrees of condemnation were filed as to the articles seized at Forest Park, Ga., and Columbus, Ohio, to which decrees the claimant consented without admitting that the articles were either adulterated or misbranded. Thereafter, the articles from three actions were segregated and 13,419 cases which were found to be violative were returned under bond to the dealer's plant in Florida, where 14 cases were destroyed and 13,405 cases were relabeled as a drink for export.

29675. Glaced pineapple halves. (F.D.C. No. 50289. S. No. 61-074 A.)

QUANTITY: 60 unlabeled 10-lb. trays, at Los Angeles, Calif., in possession of Mission Pak, Inc.

SHIPPED: 8-24-60, from Cuba.

RESULTS OF INVESTIGATION: The article had been shipped in bulk as above and had been subsequently glazed and repacked into trays by the dealer, Mission Pak, Inc.

LIBELED: 6-5-64, S. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent excreta pellets; insects, insect parts, and insect excreta; and 402(a) (4)—packed and held under insanitary conditions.

DISPOSITION: 7-13-64. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

29676. Frozen broccoli. (F.D.C. No. 49663. S. No. 77-920 X.)

QUANTITY: 1,050 cases, each containing 12 10-oz. pkgs., at Jersey City, N.J.

SHIPPED: 11-6-63, from Salinas, Calif., by D'Arrigo Bros. Co.

LABEL IN PART: (Pkg.) "Andy Boy Selected Broccoli Spears Fresh Frozen * * * Packed for D'Arrigo Bros. Co., San Jose, Calif., Boston, Mass."

LIBELED: On or about 1-16-64, Dist. N.J.

CHARGE: 402(a) (2) (C)—when shipped, the article consisted of endrin, a food additive, which was unsafe within the meaning of 409 since it, its use, or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 2-13-64. Default—destruction.

29677. Canned corn. (F.D.C. No. 49712. S. No. 67-001 X.)

QUANTITY: 68 cases, 6 6-lb. 10-oz. cans each, at Bethesda, Md./

SHIPPED: 4-16-63, from Washington, D.C., by L. H. Parke Co.

*See also Nos. 29614, 29631, 29635.

LABEL IN PART: (Can) "Parke's Whole Kernel Golden Sweet Corn * * *
L. H. Parke Company Distributors Philadelphia, Pa. Pittsburgh, Pa.
Washington, D.C."

LIBELED: 1-9-64, Dist. Md.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned whole kernel sweet corn since it contained an excessive amount of brown or black discolored kernels.

DISPOSITION: 3-12-64. Default—destruction.

29678. Dried pinto beans. (F.D.C. No. 46334. S. No. 18-661 T.)

QUANTITY: 126 100-lb. bags at La Vernia, Tex.

SHIPPED: 5-12-61 and 5-13-61, from Rocky Ford, Colo.

LIBELED: 9-12-61, W. Dist. Tex.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect webbing while held for sale.

DISPOSITION: 9-28-61. Consent—claimed by Yoder-Casterline, Inc., Rocky Ford, Colo. Part of the article was reconditioned and part denatured for use as animal feed.

29679. Dried pinto beans. (F.D.C. No. 46337. S. No. 18-661 T.)

QUANTITY: 450 100-lb. bags at Rocky Ford, Colo.

SHIPPED: 5-12-61 and 5-13-61, from La Vernia, Tex., by Yoder-Casterline, Inc.

LABEL IN PART: (Bag) "From The Arkansas Valley of Colorado Rocky Ford Brand Recleaned Pinto Beans Yoder-Casterline, Inc., Rocky Ford, Colo."

LIBELED: 9-13-61, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect webbing when shipped.

DISPOSITION: 9-28-61. Consent—claimed by Yoder-Casterline, Inc., Rocky Ford, Colo. Part of the article reconditioned and part denatured for use as animal feed.

29680. Dried pinto beans and rice. (F.D.C. No. 49999. S. Nos. 63-190/2 A.)

QUANTITY: 14 100-lb. bags of pinto beans; 26 100-lb. bags of fancy rice; and 7 100-lb. bags of extra fancy rice; at Los Angeles, Calif., in possession of Kling Bros., Inc.

SHIPPED: 1-14-64 and 3-5-64, from Twin Falls, Idaho, and Houston, Tex.

LIBELED: 4-24-64, S. Dist. Calif.

CHARGE: 402(a)(3)—both articles contained rodent urine and the rice contained rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-25-64. Default—destruction.

29681. Dried Great Northern beans. (F.D.C. No. 49825. S. Nos. 96-308 A, 96-919 A.)

QUANTITY: 840 100-lb. bags at San Jose, Calif.

SHIPPED: 1-28-64 and 1-31-64, from Buhl, Idaho, by Trinidad Bean & Elevator Co.

LABEL IN PART: (Bag) "Outwest Brand Idaho Great Northern Beans Packed By Bean Growers Whse. Assn. Inc. Twin Falls Idaho."

LIBELED: 3-5-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions when shipped.

DISPOSITION: 4-3-64. Consent—claimed by Trinidad Bean & Elevator Co., San Francisco, Calif. Segregated; 1,230 lbs. denatured for seed, 35 lbs. destroyed.

29682. Dried navy beans. (F.D.C. No. 48707. S. No. 29-192 V.)

QUANTITY: 350 100-lb. bags at Nebraska City, Nebr.

SHIPPED: 12-27-62, from Lowell, Mich.

LIBELED: 2-19-63, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 12-6-63. Consent—claimed by Morton House Kitchens, Inc., Nebraska City, Nebr., and reconditioned.

TOMATOES AND TOMATO PRODUCTS

29683. Tomato paste. (F.D.C. No. 46551. S. No. 46-070 T.)

QUANTITY: 1,148 cases of 6 cans each, at St. Louis, Mo.

SHIPPED: 9-21-61, from Patterson, Calif., by Patterson Canning Co.

LABEL IN PART: (Case) "Six #12 Patterson Tomato Paste * * * Patterson Canning Company, Patterson, California."

LIBELED: 11-22-61, E. Dist. Mo.

CHARGE: 402(a)(3)—contained *Drosophila* flies, *Drosophila* fly eggs, maggots and other insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: On or about 1-19-62, Patterson Canning Co., filed a claim to the article and an answer denying that the article was adulterated. On 4-16-62, the Government served written interrogatories on the claimant. Thereafter, the claimant objected to a number of the Government's interrogatories. On 5-11-62, the court heard oral argument on the claimant's objections. On 6-29-62, by agreement of the parties, the interrogatories were withdrawn in view of a stipulation to be filed on or before 7-13-62. Stipulations were filed and, on 12-3-62, the case was submitted for trial by the court. On 2-28-63, the court rendered the following findings of fact and conclusions of law:

MEREDITH, *District Judge*: "This case was submitted to the Court without a jury and the Court makes the following findings of fact:

FINDINGS OF FACT

"1. This case involves the seizure of 985½ cases of tomato paste, six cans to a case, which was seized by the United States Marshal for the Eastern District of Missouri under § 304 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 334.

"2. On November 22, 1961, the United States filed a Libel of Information in the United States District Court for this district alleging that the quantity of tomato paste named therein was adulterated when introduced into and while in interstate commerce within the meaning of 21 U.S.C. 342(a)(3) in that it consisted wholly or in part of a filthy substance by reason of the presence therein of drosophila flies, drosophila fly eggs, maggots, and other insect parts, and also within the meaning of 21 U.S.C. 342(a)(4) in that the tomato paste had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

"3. Patterson Canning Company, a Nevada corporation, intervened as Claimant and filed answer to the Libel.

"4. The tomato paste under seizure traveled from Patterson, California, to St. Louis, Missouri, and was manufactured at the Claimant's plant in Patterson, California, on September 19 and 20, 1961.

"5. Tomato paste is an article of food. During an inspection at Claimant's plant at Patterson, California, on September 20, 1961, the machinery and equipment of the plant, as shown by photographs introduced in the Court and the testimony of the Food and Drug Inspector, had thousands of drosophila flies on various parts of the equipment used in processing of tomatoes, including conveyor belts, seed extractors, hood coverings, and other parts of the processing machinery.

"6. The photographs showing the flies revealed that they were in many instances only inches away from the tomatoes being processed. The evidence showed that on occasions while being processed the tomatoes would hit parts of the machinery which was covered by these flies.

"7. An analysis of the seized products from thirty 100-gram samples of the tomato paste taken from thirty separate cans, each sample representing about one thirty-sixth of the total contents of the can, showed drosophila maggots, drosophila eggs, insect eggs, fly leg parts and other filth and contamination in the samples. The samples analyzed include tomato paste manufactured both on the 19th and 20th days of September, 1961.

"8. Tests made on behalf of the Claimant also showed worm skins, fly skins and other filthy substances.

"9. The presence of drosophila flies in the large number shown by the evidence constitutes insanitary conditions at the manufacturing plant of the Claimant and the presence of maggots, skins, flies and other filthy substances in the paste is contamination of the tomato paste.

CONCLUSIONS OF LAW

"1. Tomato paste is a food within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 321(f).

"2. The Federal Food, Drug and Cosmetic Act provides that a food shall be deemed adulterated if it consists wholly or in part of a filthy substance, 21 U.S.C. 342(a)(3), or if it is prepared or packed under insanitary conditions whereby it may become contaminated with filth, 21 U.S.C. 342(a)(4). In this instance the premises were insanitary and the product consisted partially of filthy substance.

"3. The Claimant argues that the presence of a small amount of maggots, fly wings and other filthy substance is not sufficient to condemn and forfeit the tomatoes. The Court is not persuaded and finds that there is no tolerance for filth under the Federal Food, Drug and Cosmetic Act, and the Secretary of Health, Education and Welfare has no authority to establish any tolerance.

"4. 21 U.S.C. 334 requires that food seized pursuant to that statute and shown to be adulterated must be condemned and forfeited to the United States.

"5. The government is entitled to a decree of condemnation forfeiting the seized tomato paste to the United States and a judgment in accordance with the terms of this memorandum will be entered providing that the food shall not be used for human consumption and shall be destroyed.

"Costs will be assessed against the Claimant.

"Dated this 28th day of February, 1963."

On or about 5-10-63, the claimant moved to re-tax costs which totaled \$1,529.01 and included \$698.90 allocated as witness fees. On 5-24-63, the court issued an order reducing the fees for witnesses and disallowing any costs for a witness who was not called by the Government, but was called by the court. Total costs paid were \$910.11.

29684. Tomato paste. (F.D.C. No. 50336. S. No. 1-872 A.)

QUANTITY: 145 cases, each containing 6 6-lb. 15-oz. cans, at Quincy, Fla.

SHIPPED: 4-20-64, from San Francisco, Calif., by Kings Food Products.

LABEL IN PART: (Can) "King-Ko Tomato Paste * * * Distributed by Kings Food Products San Francisco, California."

RESULTS OF INVESTIGATION: Analysis showed that the article was undergoing chemical decomposition.

LIBELED: On or about 7-8-64, N. Dist. Fla.

CHARGE: 402(a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 9-1-64. Default—destruction.

29685. Tomato catsup. (F.D.C. No. 50094. S. No. 42-314 A.)

QUANTITY: 65 cases, each containing 24 1-lb. 15-oz. cans, at Idaho Falls, Idaho.

SHIPPED: 3-27-64, from Ogden, Utah, by Utah Packers, Inc.

LABEL IN PART: (Can) "Pierce's Tomato Catsup * * * Distributed by Utah Packers, Inc. Ogden Utah."

LIBELED: 5-26-64, Dist. Idaho.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 6-24-64. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

29686. Mayonette dressing and Frenchette dressing. (F.D.C. No. 44927. S. Nos. 32-629 R, 36-049 R.)

QUANTITY: 20 cases, each containing 12 13-oz. jars of Mayonette dressing, and 31 cases, each containing 24 6-oz. btls., of Frenchette dressing, at Jamaica, N.Y.

SHIPPED: Between 6-29-60 and 8-18-60, from Jersey City, N.J. by Frenchette, Div. of Carter Products, Inc.

LABEL IN PART: (Jar) "Mayonette Low Calorie Replacement for Whip Salad Dressing and Mayonnaise * * * Only 8 Calories in a Full Tsp. * * * The Frenchette Div. of Carter Products, Inc. N.Y. Dist." (paper collar on jar) "80% LESS CALORIES than mayonnaise * * * Also Try Frenchette all the superb flavor of finest French Dressing * * * Italianette all the tangy flavor of real Italian Dressing," (btl.) "Non-Fattening FRENCHETTE Brand Dressing for Salads * * * Approx. 1 Calorie per Tablespoon * * * The Frenchette Div. of Carter Products, Inc., N.Y. Dis." (paper collar on btl.) "Approx. 1 Calorie per tablespoon Regular Dressing 60 Calories Per Spoon * * * Also Try Low Calorie Italianette and Mayonette."

RESULTS OF INVESTIGATION: Examination of the articles showed that the Mayonette dressing was a pale, pasty, semisolid with a taste, odor, and general appearance similar to mayonnaise, and that it contained approximately 13.5% fat by weight; and that the Frenchette dressing was a viscous, orange-colored liquid with a strong aroma of vinegar and paprika, similar in appearance to emulsified french dressing, and that it contained 0.35% fat by weight.

LIBELED: 10-13-60, E. Dist. N.Y.

CHARGE: Mayonette: 403(a)—the name of the article, "Mayonette Low Calorie" and the declaration "Whip Salad Dressing and Mayonnaise," were misleading in that they suggested and implied that the article was a low calorie mayonnaise which it was not; 403(a)—the label statements "Frenchette superb flavor of finest French Dressing," and "Italianette all the tangy flavor of real Italian Dressing," contained false and misleading representations that "Frenchette" was french dressing and "Italianette" was italian dressing;

*See also No. 29635.

403(c)—the article was an imitation of another food, namely, mayonnaise, and its label failed to bear the word “Imitation” and immediately thereafter the name of the food imitated, namely, mayonnaise; 403(f)—the ingredients declaration, the quantity of contents statement, the firm name and address, and information required by the regulations for special dietary foods, were not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use; 403(g)(1)—the article purported to be and was represented as mayonnaise, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since “veg. oil,” “algin deriv.” and “antioxidant” are not the common or usual names of those ingredients;

Frenchette: 403(a)—the name of the article “Frenchette Dressing for Salads,” was misleading in that it suggested and implied that the article was french dressing which it was not; 403(a)—the label statement “Also Try Low Calorie * * * Mayonette” was false and misleading, since “Mayonette” was not low in calories; 403(c)—the article was an imitation of another food, namely, french dressing, and its label failed to bear the word “Imitation” and immediately thereafter the name of the food, namely, french dressing, imitated; 403(f)—the firm name and address, and the quantity of contents statement, were not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(g)(1)—the article purported to be and was represented as french dressing, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard.

DISPOSITION: On 11-4-60, the articles were claimed by Carter Products, Inc. On 6-19-61, the Government filed written interrogatories and on 7-21-61, the claimant filed written interrogatories. On 9-14-61, the claimant objected to the interrogatory numbered 5 by the Government, which asked for complete qualitative and quantitative formulas for Mayonette, Frenchette, and Italianette dressings on the grounds that quantitative formulas were trade secrets. Claimant submitted answers to other interrogatories on 9-22-61.

The Government opposed claimant’s objection to interrogatories and objected to interrogatories of the claimant relating to other products which purported to be low in calories, and relating to variations of other foods for which standards had been promulgated, and relating to other “imitation” products. Other interrogatories were answered by the Government.

On 10-13-61, the court ruled on the objections, delivering the following opinion:

RAYFIEL, *District Judge*: “These are cross-motions. The claimant has objected to the libelant’s interrogatory No. 5, and the libelant has objected to claimant’s interrogatories Nos. 79-89, inclusive, 116-18, inclusive, 120-126(a), inclusive, 138-142, inclusive, and 149. Most of the interrogatories propounded by the claimant involve a claim of discrimination on the part of the Government. As I indicated during the course of the arguments of the motions, none of claimant’s interrogatories, save for No. 149, is relevant to the issues herein.

“I have read *Yick Wo vs. Hopkins*, 118 U.S. 356 and *Consumers Union of the United States vs. Walker*, 145 F. 2d 33, to which the claimant’s counsel

invited the Court's attention in support of his argument. The first of those cases is entirely inapposite. As to the second, while the question of discrimination may, in part, have influenced the Court's decision, the crux thereof undoubtedly was its conclusion that neither the text nor the manner of distribution of the report in question was violative of the statute involved in the case. Moreover the question of discrimination is not relevant *to the case at bar*.

"Accordingly, the libelant's objections to the aforementioned interrogatories of the claimant, except for No. 149, are sustained. As to No. 149, the libelant will furnish to the claimant copies of all correspondence between them since April 2, 1957 which related to the products involved in this case.

"Claimant's objection to libelant's interrogatory No. 5 is overruled, except that the quantitative formula or analysis of each of the products therein referred to shall be sealed and kept in the custody of the Clerk of this Court until the trial of the case, at which time it will be delivered to the trial judge for such use as he may deem proper.

"Settle order on notice."

In accord with this opinion, and the order entered pursuant thereto on 11-17-61, the Government answered the interrogatory and submitted copies of the communications; and the claimant submitted a sealed copy of the quantitative formula to the Clerk, and also submitted the qualitative formula.

In November 1962, the Government moved for summary judgment, and on 12-7-62, the claimant filed its Statement of Material Fact Showing a Genuine Issue To Be Tried. Subsequently, the claimant withdrew its answer, and a default decree ordering destruction of the goods was entered 1-8-63.

29687. Cinnamon and black pepper. (F.D.C. No. 48947. S. Nos. 17-685/6 V.)

QUANTITY: 310 cases, each containing 12 cans of pepper, and 71 ctns., each containing 12 cans of cinnamon, at Nashville, Tenn., in possession of Cumberland Manufacturing Co.

SHIPPED: Between 1-15-63 and 2-20-63, from New Orleans, La., San Francisco, Calif., and Brooklyn, N.Y.

LABELS IN PART: (Cans) "Windsor Brand Ground Cinnamon One Ounce Net Weight [or "Pure Ground Black Pepper Net Wt. 4 Ozs.]" Packed by Cumberland Mfg. Co., Nashville, Tenn."

RESULTS OF INVESTIGATION: The articles had been repacked by the dealer from bulk stocks. The pepper was approximately 4 percent short weight and the cinnamon, approximately 7 percent short weight.

LIBELED: 5-6-63, M. Dist. Tenn.

CHARGE: 403(e)(2)—while held for sale, the articles failed to bear a label containing an accurate statement of the quantity of the contents, since the label statements (Pepper) "Net Wt. 4 Ozs." and (Cinnamon) "One Ounce Net Weight" were inaccurate.

DISPOSITION: 6-19-63. Default—delivered to a charitable institution.

29688. Mustard seed. (F.D.C. No. 49599. S. Nos. 36-762 X, 38-637 X.)

QUANTITY: 168 100-lb. bags of yellow mustard seed and 263 100-lb. unlabeled bags of brown mustard seed at Gretna, La.

SHIPPED: 4-27-63 and 5-20-62, from Power, Mont.

LIBELED: 1-16-64, E. Dist. La.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 7-28-64. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

29689. Various special dietary foods. (Inj. No. 437.)

COMPLAINT FOR INJUNCTION FILED: 10-18-62, Dist. Md., against Burrough Bros. Manufacturing Co., a corporation, Baltimore, Md., and Benjamin Gaboff, president.

ALLEGED VIOLATIONS: The complaint alleged that the defendants were engaged in the business of manufacturing, packing, labeling, selling, and introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, articles of food and drug; that the defendants violated the law by the shipment, as above, of various articles of drug and food which were adulterated and misbranded; and that typical of the foods which were introduced or caused to be introduced or delivered or caused to be delivered for introduction into interstate commerce, by the defendants on the dates indicated, in an adulterated or misbranded condition, were the following:

(a) On October 29, 1960, 900 Calorie Food Concentrate (chocolate flavor), which was 48% deficient in protein and contained 21% excess fat;

(b) On October 29, 1960, 900 Calorie Food Concentrate (vanilla flavor), which was 21% deficient in protein and contained 13% excess fat;

(c) On November 23 and 28, 1960, 900 Calorie Food Concentrate (vanilla flavor), which was 34% deficient in protein, 38% deficient in phosphorus, 39% deficient in calcium, and 89% deficient in iron, and whose label failed to bear the common or usual name of several ingredients;

(d) On December 8, 1960, 900 Calorie Food Concentrate (chocolate flavor), which was 38% deficient in phosphorus, 44% deficient in calcium, and 69% deficient in iron, and whose label failed to bear the common or usual names of several ingredients;

(e) On May 10, 1961, 900 Calorie Food Concentrate (chocolate flavor), which was deficient in vitamin A.

The complaint alleged further that the defendants were well aware that their actions were in violation of the law, and that despite a number of warnings, the defendants continued to introduce and cause to be introduced and to deliver and cause to be delivered for introduction into interstate commerce, articles which were adulterated and misbranded.

CHARGE: 402(b)(1)—when shipped, a number of articles which purported to be and were represented as foods for special dietary uses had had a valuable constituent in whole or in part omitted or abstracted therefrom; and 403(a)—the labeling of a number of articles which purported to be and were represented as foods for special dietary uses was false and misleading in particulars concerning the articles' vitamin, mineral, and other dietary properties which were prescribed by regulations as necessary in order fully to inform purchasers as to their value for such uses.

A number of drugs were alleged to be adulterated and misbranded as is reported in drugs and devices notices of judgment, No. 7789.

DISPOSITION: On 10-18-62, the court issued a temporary restraining order. On 12-4-62, a consent decree of permanent injunction was filed which perpetually restrained and enjoined the defendants from, directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, any

article of drug that was misbranded or adulterated in a number of specified ways, and any article of food:

(a) That purported to be, and was represented as, a food for special dietary use and was adulterated in that a valuable constituent had been in whole or in part omitted or abstracted therefrom; or

(b) That purported to be, and was represented as, a food for special dietary uses and was misbranded in that its labeling was false and misleading in particulars concerning its vitamins, minerals, and other dietary properties.

The decree further perpetually restrained and enjoined the defendants from, directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, any article of food or drug unless a number of specified manufacturing safeguards were established and maintained, and representatives of the Food and Drug Administration were given free access to various specified records and controls, including those embodying the safeguards for interstate commerce necessary for the maintenance of current good pharmaceutical manufacturing practice.

29690. Dried comfrey leaf and comfrey tablets. (F.D.C. No. 49378. S. No. 31-776 X.)

QUANTITY: 74 4-oz. bags of dried comfrey leaf, and 17 96-tablet boxes of comfrey tablets, at Riverside, Calif.

SHIPPED: On an unknown date, from Otorohanga, New Zealand, by Comfrey Supplies (N.Z.) Ltd.

LABEL IN PART: (Bag) "Vitamin Nimativ Dried Comfrey Leaf * * * Analysis * * * Mineral * * * Vitamin B Group * * * Manufactured by Comfrey Supplies (N.Z.) Ltd. * * * Otorohanga, N.Z." (box) "Comfrey Tablets Energy Strength Health * * * Recommended Dose * * * Standard Analysis * * * Mineral * * * Vitamin B Group Comfrey Supplies (N.Z.) Ltd."

ACCOMPANYING LABELING: Brochures entitled "Comfrey The Wonder Plant."

LIBELED: 10-1-63, S. Dist. Calif.

CHARGE: 403(j)—when shipped, the articles purported to be and were represented as food for special dietary use by reason of their vitamin and mineral content and their labels failed to bear as required by regulations, a statement of the proportion of the minimum daily requirement for vitamins A, B₁, C, D, riboflavin, niacin or niacinamide, and calcium, phosphorus, iron or iodine supplied by the articles when consumed in a specified quantity during the period of 1 day.

The libel alleged also that the articles were misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 7802.

DISPOSITION: 11-15-63. Default—destruction.

29691. Dextra Sugar. (F.D.C. No. 45698. S. No. 14-996 R.)

QUANTITY: 224 cases, of 12 3-lb. bags each, at Hamilton, Ohio.

SHIPPED: 2-2-61, from Delray Beach, Fla., by Sugarlogics World Corp.

LABEL IN PART: (Bag) "New! Dextra Sugar Fortified with Vitamins and Minerals 27 Health Building Nutrients White—Granulated Packed with Health Power for the Entire Family! * * * Dextra Gives You These Nutritional Benefits! * * * A Product of The Sugarlogics World Corporation Manufactured and Distributed in Florida by The Sugarlogics Southern Corpo-

ration, Delray Beach, Florida," (tag) "Dextra Sugar Saves You Money on Essential Vitamins and Minerals! Gives You Abundant Health Benefits As You Eat!"

RESULTS OF INVESTIGATION: Analysis showed that the article was approximately 97.4 percent sucrose.

LIBELED: 4-6-61, S. Dist. Ohio.

CHARGE: 403(a)—when shipped, the name of the article was false and misleading since it suggested and implied that the article was dextrose; the labeling contained false and misleading representations that the article contained 27 health-building nutrients in natural form; that the need in human nutrition for all the substances added to the sugar has been established; and that all such substances were present in nutritionally significant amounts for special dietary use; and that by consuming the article a completely balanced diet would result; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin, mineral, and other dietary properties and its label failed to bear, as required by regulations, (a) a statement of the proportions of the minimum daily requirement for vitamins A, B₁, C, D, riboflavin, and niacin or niacinamide, and minerals calcium, phosphorus, iron, or iodine supplied by such food when consumed in a specified quantity during a period of one day; (b) a statement of the quantity of vitamins B₆, B₁₂, E, D, choline, inositol, betaine, and pantothenic acid, and the minerals phosphorus, sodium, silicon, manganese, magnesium, potassium, sulfur, copper, and zinc in a specified quantity of such food; (c) the statement "The need for choline, inositol, pantothenic acid, betaine, silicon, manganese, sulfur and zinc in human nutrition has not been established" and (d) a statement of the percent by weight of protein, fat, and available carbohydrates in such food and the number of available calories supplied by a specified quantity of such food.

The libel alleged also that the article was misbranded under the provisions of the Act relating to drugs, as reported in notices of judgment on drugs and devices, No. 7824.

DISPOSITION: 5-8-61. Default—delivered to a charitable institution.

29692. Soybean lecithin capsules and Sea Spray salt. (F.D.C. No. 46577. S. Nos. 39-287 T, 40-484/5 T.)

QUANTITY: 15 bulk drums of sea salt; 124 4-oz. cans of Sea Spray salt; and 18 ctns., each containing 24 100-capsule btls., 10 ctns., each containing 12 500-capsule btls., of Soybean lecithin capsules, at Valley Stream, N.Y., in possession of Barth Levitt Products, Inc.

SHIPPED: Between 6-12-61 and 10-23-61, from Houston, Tex., and Newark, N.J.

LABEL IN PART: (Drum) "Natural Mineral Sea Salt 'Nature's Own Sea Minerals'"; (can) "Natural Sea Spray Salt with Trace Elements * * * Distributed by Barth Levitt Products, Valley Stream, N.Y."; (btl.) "8 Grains Barth's Soy Bean Lecithin * * * Each capsule contains 8 grains of Soybean Lecithin * * * Distributed by Barth Levitt Products Valley Stream, N.Y."

ACCOMPANYING LABELING: Catalogs entitled "Barth's of Long Island Guide to Health Autumn [or "Mid-Summer"] Issue," and repack labels for Sea Spray salt.

RESULTS OF INVESTIGATION: The catalogs had been printed on order of the dealer and were used in promoting sales of the articles. The bulk sea salt had been repacked in part by the dealer as Sea Spray salt.

LIBELED: 10-23-61, E. Dist. N.Y.

CHARGE: 403(a)—while held for sale, the labeling of the Sea Spray salt as repacked and as sea salt in bulk contained false and misleading representations that the article was of unusual significance for special dietary use by reason of the presence of all the trace elements from the sea; that such trace elements are catalysts which unlock the benefits of food so that the body can use such food to the best advantage; and that the article would promote health; and 403(j)—the soybean lecithin capsules purported to be and were represented as a food for special dietary use, and their label failed to bear as required by regulations the statement "The need for choline and inositol in human nutrition has not been established."

The libel alleged also that the soybean lecithin capsules, and other articles also libeled, were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7826.

DISPOSITION: On 1-24-62, Barth Levitt Products, Inc., having claimed the articles, a consent decree of condemnation permitting relabeling was filed. On 3-29-63, the claimant having represented to the court that it was impractical to bring the articles into compliance with the law consented that the articles be destroyed, and an order of destruction was entered.

29693. Cal-Re-Low dietary supplement. (F.D.C. No. 46241. S. Nos. 88-665/6 R.)

QUANTITY: 16 14-oz. jars, and 18 7-oz. jars at Kansas City, Mo.

SHIPPED: 5-18-61, from Minneapolis, Minn., by Pavo Co., Inc.

LABEL IN PART: (14-oz. jar) "Pavo High Protein Cal-Re-Low Weight Control Supplement 'A Meal-In-Itself' 65% Complete Protein 30 Vitamins-Minerals 7 Basic Nutrients Black Cherry Flavor * * * Packed and Distributed by The Pavo Co., Inc., Minneapolis, Minnesota * * * Directions * * * As A Dietary Supplement 3 well-rounded tablespoonsful (1½ oz.) 'Cal-Re-Low' supplies * * * Folic Acid .6 Mg."; and (7-oz. jar) "Pavo 65% Complete Protein Cal-Re-Low Weight Control Aid 'A Meal-In-Itself' 17 Vitamins—13 Minerals 7 Basic Nutrients Unflavored Packed and Distributed by The Pavo Co., Inc. Minneapolis, Minnesota * * * Directions * * * As A Dietary Supplement 3 well-rounded tablespoonsful (1½ oz.) 'Cal-Re-Low' supplies * * * Folic Acid .6 Mg."

ACCOMPANYING LABELING: Pamphlet entitled "Overweight? Underweight? Cal-Re-Low a dual-purpose food may be Your Answer."

LIBELED: On or about 8-7-61, W. Dist. Mo.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, namely, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use are not in conformity with a regulations or exemption; 403(a)—the labeling of the article contained false and misleading representations that the article was both high in protein and low in calorie content; and that a serving of the article was equivalent to a nutritionally balanced meal; and 403(i)(2)—the labeling of the 7-oz. jars (18-jar lot) failed to bear the common or usual name of each ingredient.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7825.

DISPOSITION: 11-29-61. Default—destruction.

29694. Vitamin-mineral capsules. (F.D.C. No. 49812. S. No. 19-523 A.)

QUANTITY: 150 btl., at Erie, Pa., in possession of Heyl Physicians Supply Co.

SHIPPED: 3-13-63, from Detroit, Mich.

LABEL IN PART: (Btl.) "100 caps Heyl Vitamin-Mineral Capsules Average Dose-As a dietary supplement, one capsule daily * * * Ingredients in each capsule: * * * Folic Acid 0.25 mg. * * * Liver Desiccated N.F. (undefatted) 100 mg. Lemon Bioflavanoid Complex 5 mg. Choline Bitartrate 25 mg. DL-Methionine 10 mg. Inositol 10 mg. * * * Phosphorus (from dical) (Phosphate) 58 mg. * * * Magnesium (from Magnesium Sulfate) 3 mg. Manganese (from Manganese Sulfate) 1 mg. Potassium (from Potassium Sulfate) 2.5 mg. Zinc (from Zinc Sulfate) 1 mg. Linoleic Acid (from corn oil) 147 mg. Oleic Acid (from corn oil) 161 mg."

RESULTS OF INVESTIGATION: The article was shipped in bulk as described above and repacked by Heyl Physicians Supply Co. into bottles bearing the above-mentioned label.

LIBELED: 2-20-64, W. Dist. Pa.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption; 403(a)—the listing on the label of certain ingredients, namely, desiccated liver, lemon bio-flavanoid complex, inositol, phosphorus, magnesium, manganese, methionine, potassium, zinc, choline, oleic acid, and linoleic acid implied and suggested that the nutritional value of the article was enhanced by the presence of such ingredients, when in fact such implications and suggestions were false and misleading in that the presence of these ingredients was of no nutritional significance for dietary supplementation.

DISPOSITION: 3-20-64. Default—destruction.

29695. Vitamin-mineral tablets. (F.D.C. No. 49622. S. No. 4-425 X.)

QUANTITY: 5 12,500-tablet drums and 264 100-tablet btl., at Baltimore, Md.

SHIPPED: 10-3-63, from New York, N.Y., by Davis-Edwards Pharmacal Corp.

LABEL IN PART: (Drum) "Formula Therapeutic With Minerals Each Tablet Contains * * * Suggested Dose: As a dietary supplement * * * Davis-Edwards Pharmacal Corporation New York, N.Y."

RESULTS OF INVESTIGATION: Testing showed that the article failed to disintegrate after treatment for at least 5 hours in simulated gastric and intestinal fluids. The bottles had been packed locally from tablets from the drums shipped as above.

LIBELED: 11-20-63, Dist. Md.; libel amended 12-12-63 and 12-17-63.

CHARGE: 402(b)(2)—when shipped, an article which failed to disintegrate had been substituted in part for an article which would disintegrate to permit adequate assimilation of its nutrients; and 403(a)—the label of the article contained false and misleading representations that the declared nutrients of the article as normally administered were assimilable in the human body.

DISPOSITION: 4-13-64. Default—destruction.

29696. Vitamin and mineral tablets. (F.D.C. No. 49955. S. No. 7-903 A.)

QUANTITY: 49 cases, each containing 24 100-tablet btl.; 6 cases, each containing 13,500 tablets; 1 case containing 4,400 tablets; 1 case containing 230 tablets; 1 case containing 8,000 tablets; and 50 100-tablet envelopes, at Chester, Va.

SHIPPED: On unknown date from New York, N.Y., by Park Drug Co.

LABEL IN PART: (Case) "From Ivers-Lee Company, * * * Newark 3, New Jersey * * * Professional Pharmaceutical Company, Chester, Virginia * * * Multiple Vitamin Tablets * * * Units or Pkgs. of 1's * * * Total Units or Pkgs. Per Case 13,500 * * * Date 1-23-64"; (btl.) "100 Tablets Vitamins & Minerals * * * Distributed by Professional Pharmaceutical Co. Chester, Va. * * * Each tablet contains: * * * Folic Acid 0.25 Mg. * * * Vit. K (Menadione) 0.5 Mg."; (envelope) "100 Tablets Vitamins & Minerals Each tablet contains: * * * Folic Acid 0.25 mg. * * * Vit. K (Menadione) 0.5 mg. * * * Distributed by Professional Pharmaceutical Company, Chester, Va."

LIBELED: On or about 3-30-64, E. Dist. Va.

CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives, namely, folic acid and vitamin K (menadione), which were unsafe within the meaning of 409 since they or their use, or their intended use were not in conformity with a regulation or exemption.

DISPOSITION: 4-28-64. Default—destruction.

29697. Multi-vitamin tablets. (F.D.C. No. 49847. S. No. 60-283 X.)

QUANTITY: 48 144-tablet btls. at Kansas City, Mo.

SHIPPED: Between 10-1-63 and 10-31-63, from Chicago, Ill.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 78 and 70 percent, respectively, of the declared amounts of vitamins B₁ and C.

LIBELED: On or about 3-20-64, W. Dist. Mo.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, namely, vitamin B₁ and vitamin C, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statements "Each Tablet Contains:—Vitamin B₁ (Thiamine HCL) 2.5 mg." and "Vitamin C (Ascorbic Acid) 50 mg." were false and misleading as applied to an article containing less than the declared amounts of these ingredients.

DISPOSITION: 5-8-64. Default—destruction.

29698. Dietary supplement capsules. (F.D.C. No. 49942. S. No. 19-106 A, 19-109 A.)

QUANTITY: 26,000 capsules in bulk ctns.; 18 unlabeled 100-capsule btls.; 29 unlabeled 50-capsule btls.; 3 unlabeled 250-capsule btls.; of capsules containing in part 0.2 mg. folic acid; and 8,500 capsules in bulk ctns. of capsules containing in part 0.4 mg. folic acid, at Buffalo, N.Y., in possession of Vitamin Capsules Corp.

SHIPPED: Between 9-12-60 and 5-2-63, from Detroit, Mich.

RESULTS OF INVESTIGATION: The bulk carton labels directed the use of one capsule daily as a dietary supplement. The bottles had been repacked from bulk by the dealer.

LIBELED: 4-6-64, W. Dist. N.Y.

CHARGE: 402(a)(2)(C)—while held for sale, the articles contained folic acid, a food additive, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 5-11-64. Default—destruction.

29699. Vapacaps capsules. (F.D.C. No. 49994. S. No. 8-186 A.)

QUANTITY: 315 100-capsule btls., at Olney, Md., in possession of Lamb & Berlin, Inc.

SHIPPED: 11-24-59, from New York, N.Y.

LABEL IN PART: (Btl.) "Capsules Vapacaps Multivitamin-Mineral Capsules with Iron-Calcium-Vitamin B12 Sole Distributors Lamb & Berlin, Inc. Pharmaceuticals Silver Spring Maryland Dosage: As Dietary supplement One Vapacap daily * * * each Vapacap contains * * * Folic Acid 0.34 Mg."

RESULTS OF INVESTIGATION: The article was repacked by the dealer from bulk stock.

LIBELED: 4-22-64, Dist. Md.

CHARGE: 402(a) (2) (C)—while held for sale, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 6-8-64. Default—destruction.

29700. P&T Vitamin Premix Concentrate. (F.D.C. No. 50036. S. No. 39-830 A.)

QUANTITY: 38 bags at Oklahoma City, Okla.

SHIPPED: 2-7-64, from Fort Worth, Tex., by Ray Ewing Co.

LABEL IN PART: (Bag) "Hammond P&T Vitamin Pre Mix Concentrate * * * Manufactured by The Ray Ewing Company, Pasadena, California Division of Hoffman-LaRoche, Inc."

ACCOMPANYING LABELING: Specification sheet reading in part "Guaranteed Potencies Per Pound—Riboflavin, Mg. 1,200."

RESULTS OF INVESTIGATION: Analysis showed article contained less than 75 percent of declared amount of riboflavin per pound.

LIBELED: 4-3-64, W. Dist. Okla.

CHARGE: 402(b) (1)—when shipped, the valuable constituent of the article, riboflavin, had been in part omitted or abstracted; and 403(a) the label statement "Guaranteed Potencies Per Pound—Riboflavin, mg., 1,200" was false and misleading as applied to a product containing less than the declared amount of the ingredient.

DISPOSITION: 5-1-64. Default—ordered delivered to a public institution for use as animal food.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 29601 TO 29700

PRODUCTS

	N.J. No.		N.J. No.
Alfalfa hay	29651	Bran	29630
Animal feeds	¹ 29635	Bread crumbs	29632
Apple butter	² 29672	Broccoli, frozen	29676
Barley	29610	Cake mix	29632, 29634
Beans, dried	¹ 29635	Cal-Re-Low dietary supplement	29693
garbanzo	² 29614	Candy. See Confectionery.	
lima, dried	² 29614	Catsup, tomato	29685
navy, dried	29682	Cereals and cereal products	29601-29637
pinto, dried	29631, 29678-29680		
white, dried	² 29614	Cinnamon	29687

¹ (29635, 29650, 29689) Injunction issued.

² (29614, 29672) Seizure contested.

	N.J. No.		N.J. No.
Comfrey leaf, dried	29690	Mustard seed	29688
tablets	29690	Navy beans, dried	29682
Confectionery	29638-29640	Nut-butter Crunch (candy)	29640
Corn, canned	29677	Oatmeal	29629
grits	29628	Oysters, frozen, canned	29671
Cornmeal	29634, ¹ 29635	P&T Vitamin Premix Concentrate	29700
Dextra Sugar	29691	Pancake mix	29631, 29632
Dietary foods, various	¹ 29689	Pepper, black	29687
supplement capsules	29698	Perch fillets, frozen	29662, 29663
Egg(s), frozen	29641-29649	Pesticide chemical violations	29601, 29610, 29621, 29623, 29651
whites, frozen	29644	Pie flour	29634
Feeds and grains	¹ 29650-29654	Pineapple halves, glazed	29675
medicated	29652, 29653	Pinto beans, dried	29631, 29678-29680
Fish and shellfish	29655-29671	Pollock fillets, frozen	29664
Flavors. See Spices, flavors, and seasoning materials.		Popcorn, unpopped	¹ 29635-29637
Flounder, frozen	29655-29660	Poultry premix	29654
Flour	29601-29609, 29629-29631, 29634, ¹ 29635	Preserves, raspberry, red, imitation	29673
pie	29634	Raspberry preserves, red, imitation	29673
Food additive violations	29676, 29694, 29696, 29698, 29699	Rice	29611- ² 29614, 29680
Frenchette dressing	³ 29686	Roll mix, hot	29633
Fruits and vegetables	² 29672-29685	Salt	¹ 29635
fruit butter and preserves	29672, 29673	Sea Spray	29692
miscellaneous fruit products	29674, 29675	Shad roe, fresh	29665
tomatoes and tomato products	29683-29685	Shellfish. See Fish and shellfish.	
vegetables and vegetable products	29676-29682	Shrimp, canned	29669
Garbanzo beans	² 29614	frozen	29670
Gluten, wheat	29635	Smelt, frozen	29667
Grapefruit juice, canned	29674	Soybean lecithin capsules	29692
Great Northern beans, dried	29681	Spices, flavors, and seasoning materials	29686-29688
Grits	¹ 29635	Sugar	¹ 29635
Haddock fillets, frozen	29661	Dextra	29691
Hay, alfalfa	29651	Tomato catsup	29685
Ice cream cones	29632	paste	⁴ 29683, 29684
Lentils, dried	² 29614	Trout, frozen	29668
Lima beans, dried	² 29614	Tuna, canned	29666
Macaroni	29631, 29633	Turkey premix	29654
Mayonette dressing	³ 29686	Vapacaps capsules	29699
Medicated feed	29652, 29653	Vegetables. See Fruits and vegetables.	
Mix, cake	29632	Vitamin, mineral, and other products of special dietary significance	29689-29700
hot roll	29633		
pancake	29631		
waffle	29632		

¹ (29635, 29650, 29689) Injunction issued.² (29614, 29672) Seizure contested.³ (29686) Seizure contested. Contains opinion of the court.⁴ (29683) Seizure contested. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Waffle mix-----	29632	Wheat -----	29615-29627
Watermelon Slices (candy)-----	29639	gluten ----- ¹	29635

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Adler Egg Co.:		Cadur Trading Corp.:	
frozen eggs-----	29646	rice, dried white beans, lima	
Allen County Food Distributors:		beans, lentils, and garbanzo	
pancake mix, waffle mix, cake		beans----- ²	29614
mix, ice cream cones, and		Carlisle Poultry & Egg Associa-	
bread crumbs-----	29632	tion, Inc.:	
Allied Bakers Supply, Inc.:		frozen eggs-----	29648
cake mix, flour, pie flour, and		Carter Products, Inc. <i>See</i>	
cornmeal-----	29634	Frenchette Div.	
Alver Bros. Co.:		Centennial Mills, Inc.:	
unpopped popcorn-----	29637	bran and flour-----	29630
Alver Popcorn Co.:		Cochran, Claude:	
unpopped popcorn-----	29637	popcorn, cornmeal, grits, wheat	
Ammons, Bud:		gluten, flour, dried beans,	
alfalfa hay-----	29651	sugar, salt, and animal	
Arkansas Valley Wholesale Gro-		feeds----- ¹	29635
cer Co.:		Cochran Exterminating Co., Inc.:	
pancake mix, dried pinto		popcorn, cornmeal, grits, wheat	
beans, macaroni, and flour--	29631	gluten, flour, dried beans,	
Barth Levitt Products, Inc.:		sugar, salt, and animal	
soybean lecithin capsules and		feeds----- ¹	29635
Sea Spray salt-----	29692	Comfrey Supplies, Ltd.:	
Bean Growers Warehouse Asso-		dried comfrey leaf and com-	
ciation, Inc.:		frey tablets-----	29690
dried Great Northern beans---	29681	Commercial Creamery Co.:	
Blanke-Baer Extract & Preserv-		frozen eggs-----	29643
ing Co.:		Cumberland Manufacturing Co.:	
apple butter----- ²	29672	cinnamon and black pepper--	29687
Boerstler Bros. Wholesale Gro-		D'Arrigo Bros. Co.:	
cery:		frozen broccoli-----	29676
flour-----	29604	Davis-Edwards Pharmacal Corp.:	
Bon Secour Fisheries:		vitamin-mineral tablets-----	29695
frozen shrimp-----	29670	Dorchester Farmers Cooperative:	
Broussard, J. B.:		wheat-----	29619
rice-----	29611	Elmore Milling Co., Inc.:	
Burnett Produce Co.:		animal feeds----- ¹	29650
frozen eggs-----	29647	Empire Fish Co., Inc.:	
Burrough Bros. Manufacturing		ocean perch fillets-----	29663
Co.:		Emulsol Egg Products Corp.:	
various special dietary foods- ¹	29689	frozen egg whites-----	29644
Byron Grain Co.:		Eureka Equity Exchange, Inc.:	
wheat-----	29624	flour-----	29606

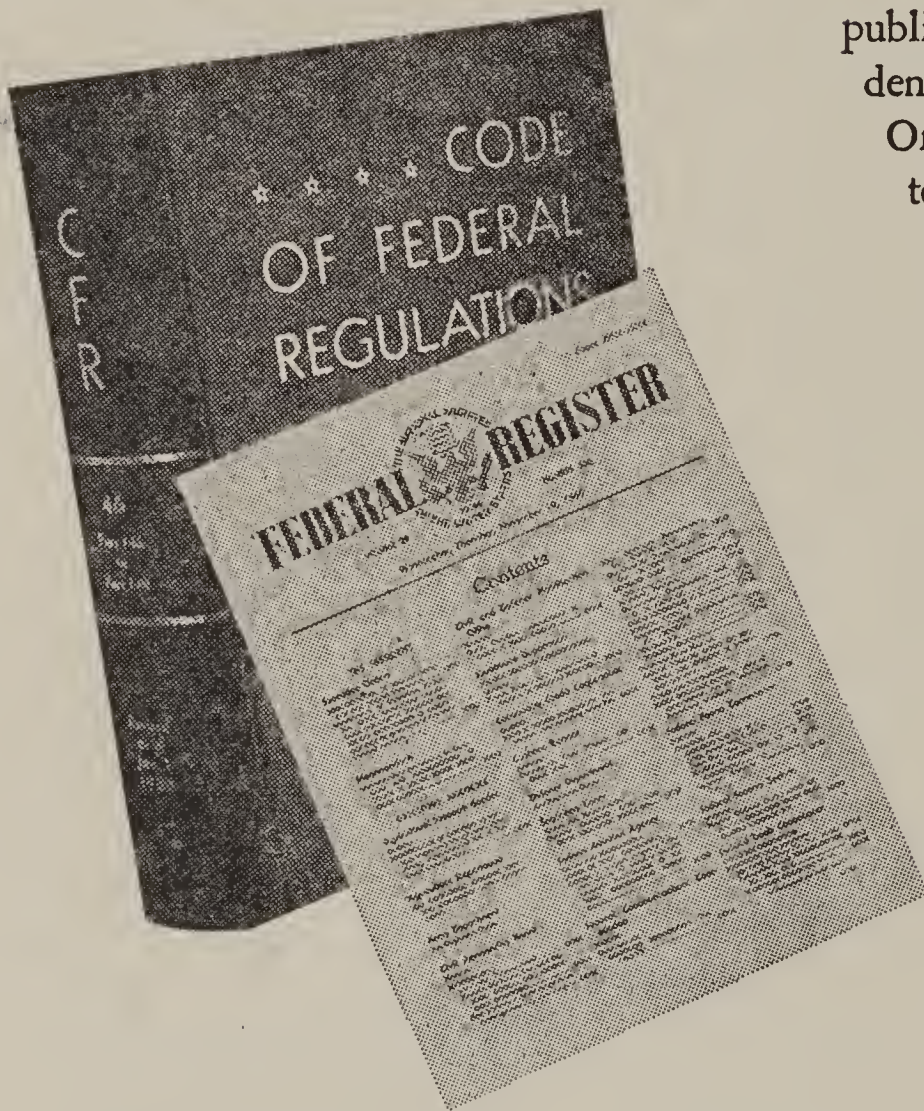
¹ (29635, 29650, 29689) Injunction issued.² (29614, 29672) Seizure contested.

	N.J. No.		N.J. No.
Ewing, Ray, Co., Calif. Div. of Hoffman-La Roche, Inc.:		Kennebec (boat):	
P&T Vitamin Premix Concentrate-----	29700	ocean perch fillets-----	29662
Farmers Co-op Co.:		Kennedy, McHan, Campbell Co., Inc.:	
wheat-----	29627	oatmeal, unpopped popcorn, and flour-----	29629
Farmers Cooperative Elevator:		Keppel's, Inc.:	
wheat-----	29616	Watermelon Slices (candy) --	29639
Farmers Cooperative Elevator Co.:		Kings Food Products:	
wheat-----	29619	tomato paste-----	29684
Farmers Cooperative Grain Co.:		Kitchens Feed Milling, Inc.:	
barley-----	29610	flour -----	29608
Farmers Elevator Federation:		Kling Bros., Inc.:	
wheat-----	29626	dried pinto beans and rice---	29680
Farmers Union Grain Terminal Association:		Lamb & Berlin, Inc.:	
wheat-----	29615	Vapacaps capsules-----	29699
Flintridge Egg Farms, Inc.:		Lopez, R., & Co.:	
frozen eggs-----	29641	rice, dried white beans, lima beans, lentils, and garbanzo beans ----- ³	29614
Frenchette, Div. of Carter Prod- ucts, Inc.:		Magnolia Seafood Co., Inc.:	
Mayonette dressing and Frenchette dressing----- ³	29686	frozen pollock fillets-----	29664
Frutchey Bean Co.:		Marlow Egg Farms:	
wheat-----	29617	frozen eggs-----	29649
Gaboff, Benjamin:		Massachusetts (boat):	
various special dietary foods-- ¹	29689	frozen haddock fillets-----	29661
Gallagher, Daniel, Co.:		Michigan Bean Co.:	
flour -----	29607	wheat -----	29620
General Juices Corp.:		Michigan Elevator Exchange:	
canned grapefruit juice-----	29674	wheat -----	29616
Genitempo, Joe, Sr.:		Mission Pak, Inc.:	
frozen pollock fillets-----	29664	glaced pineapple halves-----	29675
Heyl Physicians Supply Co.:		Norris Grain Co.:	
vitamin-mineral capsules-----	29694	wheat -----	29622
Hoffman-La Roche, Inc. See Ewing, Ray, Co.		Olson Bros., Inc.:	
Huston, Tom, Peanut Co., Inc.:		frozen eggs-----	29645
chocolate peanut clusters-----	29638	Park Drug Co.:	
Ivers-Lee Co.:		vitamin and mineral tablets---	29696
vitamin and mineral tablets--	29696	Parke, L. H., Co.:	
K.M.C. Co., Inc. See Kennedy, McHan, Campbell Co., Inc.		canned corn-----	29677
Katzenberger, J. R.:		Patterson Canning Co.:	
wheat -----	29625	tomato paste----- ⁴	29683
Kay Sales Co.:		Pavo Co., Inc.:	
canned shrimp-----	29669	Cal-Re-Low dietary supple- ment -----	29693
		Pejay Packing Co., Ltd.:	
		frozen smelt-----	29667

¹ (29635, 29650, 29689) Injunction issued.² (29614, 29672) Seizure contested.³ (29686) Seizure contested. Contains opinion of the court.⁴ (29683) Seizure contested. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Pendleton, A. S., Co., Inc. :		Southland Mill & Elevator Co. :	
flour -----	29603	flour -----	29609
Professional Pharmaceutical		Stuckey's, Inc. :	
Co. :		Nut-butter Crunch-----	29640
vitamin and mineral tablets--	29696	Sugarlogics Southern Corp. :	
Ramos Shrimp Co. :		Dextra Sugar-----	29691
frozen flounder-----	29655-29659	Sugarlogics World Corp. :	
Regal Lobster Co. :		Dextra Sugar-----	29691
fresh shad roe-----	29665	Sully County Co-operative Asso-	
Rim View Trout Co., Inc. :		ciation :	
frozen trout-----	29668	wheat -----	29618
Rudolph, L., Co., Inc. :		Tensen, John :	
frozen eggs-----	29648	frozen eggs-----	29642
St. Rosalie (boat) :		Tilghman Packing Co. :	
ocean perch fillets-----	29663	frozen canned oysters-----	29671
Schmitz, John :		Trinidad Bean & Elevator Co. :	
pancake mix, waffle mix, cake		dried Great Northern beans--	29681
mix, ice cream cones, and		Tri State Milling Co. :	
bread crumbs-----	29632	wheat -----	29623
Schmitz, M. T. :		Union Baking Corp. :	
pancake mix, waffle mix, cake		flour -----	29605
mix, ice cream cones, and		Utah Packers, Inc. :	
bread crumbs-----	29632	tomato catsup-----	29685
Schreiber, L. D., & Co., Inc. :		Vitamin Capsules Corp. :	
frozen eggs-----	29645	dietary supplement capsules--	29698
Serafina II (boat) :		Walker's, Cas, Cash Stores, Inc. :	
ocean perch fillets-----	29663	hot roll mix and macaroni-----	29633
Shraiar, Samuel :		Warner Cooperative Elevator	
flour -----	29605	Co. :	
Siebens Brewing Co. :		wheat -----	29621
corn grits-----	29628	Whiz Fish Products Co. :	
Southern Ice & Cold Storage Co. :		canned shrimp-----	29669
frozen eggs-----	29647	Yoder-Casterline, Inc. :	
		dried pinto beans-----	29679

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

29701-29800

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent, or in which, in one case, after trial by the court, the article was found to be not violative and such finding was affirmed upon appeal; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere, and in which, in one case, the United States Supreme Court upheld a criminal information charging an offense under the Act; and (3) an injunction proceeding in which a consent decree of permanent injunction was entered. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *March 29, 1965.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 29701-29800

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 402(b) (3), damage or inferiority had been concealed in some manner; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard; and (2) its label failed to bear, as required by regulations, the common name of certain optional ingredients present in such food; Section 403(h) (1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403(k), the article contained an artificial coloring or artificial flavoring and failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS***

29701. Frozen bread dough (2 seizure actions). (F.D.C. Nos. 50576; 50577. S. Nos. 5-432/4 A; 4-726/9 A.)

QUANTITY: 57 cases, each containing 15 2-lb. bags, and 113 cases, each containing 10 3-lb. bags, at Charlotte, N.C.; and 98 cases, each containing 10 3-lb. bags, and 615 cases, each containing 15 2-lb. bags, at Charleston, S.C., in possession of Highland Kitchens, Inc., of Denver, Colo.

SHIPPED: Between 1-6-64 and 3-14-64, from Denver, Colo.

LABEL IN PART: (Bag and case) "Heather Anne Frozen Dough For Home Baked Bread * * * Highland Kitchens, Inc. Denver, Colorado."

RESULTS OF INVESTIGATION: Examination showed that the loaves when baked according to directions of the dealer did not rise properly, and the resulting baked product was heavy, doughy, and unpalatable.

LIBELED: 9-16-64, W. Dist. N.C., and 9-15-64, E. Dist. S.C.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, the leavening agent, had been in whole or in part omitted or abstracted from the article; 402(b)(3)—damage and inferiority had been concealed, since the article would not rise to produce ordinary bread when used according to directions; and 403(a)—the label bore statements, including the name "Frozen Dough For Home Baked Bread," which were false and misleading as applied to a product from which the leavening agent had been in whole or in part abstracted or omitted from the article, and which would not produce ordinary bread when used according to directions.

DISPOSITION: 10-12-64 and 10-22-64. Default—destruction.

29702. Frozen pizza pie. (F.D.C. No. 50150. S. No. 313 A.)

QUANTITY: 110 cases, each containing 6 1-lb. 6-oz. individually cellophane-wrapped frozen pizza pies, at Jacksonville, Fla.

SHIPPED: 3-17-64, from Carthage, Mo., by Fox De Luxe Foods, Inc.

LABEL IN PART: (Unit wrapper) "Fox De Luxe * * * Frozen Italian Brand * * * Cheese Pizza * * * Distributed by Fox De Luxe Foods, Inc. Chicago, Ill."

LIBELED: 6-4-64, M. Dist. Fla.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 8-31-64. Default—destruction.

CORNMEAL

29703. Cornmeal. (F.D.C. No. 50552. S. No. 10-932 A.)

QUANTITY: 187 100-lb. bags at Baltimore, Md.

SHIPPED: 5-27-64, from Indianapolis, Ind.

LIBELED: 8-24-64, Dist. Md.

CHARGE: 402(a)(3)—the article contained insect larvae and insect fragments while held for sale.

DISPOSITION: 9-23-64. Default—destruction.

*See also No. 29798.

29704. Cornmeal. (F.D.C. No. 49887. S. No. 24-467 A.)

QUANTITY: 287 100-lb. bags at Earlville, Ill., in possession of Maize Industries.

SHIPPED: 8-21-63, from Milwaukee, Wis.

LIBELED: 2-20-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained dead rodents, rodent excreta pellets, and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-16-64. Consent—destruction.

FLOUR*

29705. Flour. (F.D.C. No. 49858. S. Nos. 54-522/3 X.)

INFORMATION FILED: 6-4-64, E. Dist. Tenn., against Fayetteville Milling Co., a corporation, Fayetteville, Tenn.

SHIPPED: 9-4-63, from Tennessee to Alabama.

LABEL IN PART: (Bag) "10 Lbs. Net. Wt. [or "5 Lbs. Net. Wt."] Bleached Fayetteville Milling Co. F l o u r Fayetteville, Tenn."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-20-64. \$1,000 fine.

29706. Flour. (F.D.C. No. 50031. S. Nos. 15-798 X, 54-711 X.)

INFORMATION FILED: 7-17-64, S. Dist. Ind., against William A. Russell, t/a Friendship Milling Co., Friendship, Ind.

SHIPPED: 9-25-63 and 10-21-63, from Indiana to Ohio.

LABEL IN PART: (Bag) "Water Lily Flour Bleached—Phosphated * * * Friendship Milling Co., Friendship, Indiana"; and "Water Lily Flour Manufactured by Friendship Milling Co. Bill Russell, Prop. Friendship, Indiana 100 lbs."

CHARGE: 402(a)(3)—contained rodent hairs and insect fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-4-64. \$10 fine, plus court costs.

29707. Self-rising flour and rice. (F.D.C. No. 49695. S. Nos. 2-657 T, 585/6 V, 2-879 X.)

INFORMATION FILED: 4-17-64, N. Dist. Ga., against Georgia Feed & Grocery Co., a partnership, Atlanta, Ga., Morris L. Piassick, and Samuel J. Shavin, individuals.

ALLEGED VIOLATION: Between 9-29-61 and 8-27-63, while quantities of flour and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—three lots contained insects and insect larvae and one lot also contained insect pupae; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty by the individuals to 3 counts; by the partnership to 1 count.

DISPOSITION: 7-22-64. Each defendant—\$300 fine.

*See also No. 29714.

29708. Flour. (F.D.C. No. 48965. S. Nos. 7-640 V, 8-672 V.)

QUANTITY: 372 100-lb. bags at Springfield, Mass.

SHIPPED: 4-3-63, from Bridgeport, Conn., by Freight Agent, New York, New Haven & Hartford Railroad Co.

RESULTS OF INVESTIGATION: The articles were held under insanitary conditions in a rodent-infested railroad car.

LIBELED: 5-16-63, Dist. Mass.

CHARGE: 402(a)(3)—when shipped, contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-24-63. Default—delivered to a State institution for use as animal feed.

29709. Flour. (F.D.C. No. 50553. S. Nos. 26-701/3 A.)

QUANTITY: 99 100-lb. bags at Chicago, Ill., in possession of Wolf Flour Cartage Co.

SHIPPED: Between 5-14-63 and 5-18-64, from Watertown, Wis.; Red Wing, Minn.; and Minneapolis, Minn.

LIBELED: 8-20-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-9-64. Default—destruction.

29710. Cake flour. (F.D.C. No. 50595. S. Nos. 14-924/26 A.)

QUANTITY: 91 100-lb. bags of cake flour, at Bridgeport, Conn., in possession of Berkshire Bakers, Inc.

SHIPPED: Between 9-12-63 and 7-30-64, from Buffalo, N.Y.

LIBELED: On or about 10-7-64, Dist. Conn.

CHARGE: 402(a)(3)—the article was rodent-gnawed; and 402(a)(4)—the article was held under insanitary conditions.

DISPOSITION: 10-22-64. Default—ordered delivered to a Federal institution for use as animal feed.

MACARONI AND NOODLE PRODUCTS

29711. Spaghetti, macaroni, and noodles. (F.D.C. No. 50314. S. No. 38-295 A.)

QUANTITY: 17 20-lb. boxes and 11 10-lb. boxes of thin spaghetti, 12 20-lb. boxes and 9 10-lb. boxes of elbow macaroni, 5 10-lb. boxes of medium egg noodles and 6 10-lb. boxes of dumpling egg noodles, at Harlingen, Tex., in possession of Stockton Foods, Inc.

SHIPPED: 5-7-64 and unknown dates, from Memphis, Tenn.

LIBELED: 6-27-64, S. Dist. Tex.

CHARGE: 402(a)(3)—the thin spaghetti contained insects and insect larvae; and 402(a)(4)—all the articles held under insanitary conditions.

DISPOSITION: 8-14-64. Default—destruction.

29712. Egg noodles. (F.D.C. No. 50006. S. Nos. 12-597/9 A.)

QUANTITY: 7 10-lb. cases of medium noodles, 18 10-lb. cases of fine noodles, and 18 10-lb. cases of wide noodles, at Pawtucket, R.I.

SHIPPED: Between 1-2-64 and 3-16-64, from Fall River, Mass., by Luso-American Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Case) "Venus Egg Noodles Medium [or "fine" or "wide"]."

LIBELED: 5-28-64, Dist. R.I.

CHARGE: 402(b)(1)—when shipped, the valuable constituents, solids of eggs or egg yolk had been in whole or in part omitted from the articles; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles, since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

DISPOSITION: 7-23-64. Default—delivered to charitable organizations.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

29713. Rice, hamburger mix, and breeding mix. (F.D.C. No. 47122. S. Nos. 623/4 T, 2-602/4 T, 2-606 T.)

INFORMATION FILED: 7-18-62, M. Dist. Fla., against Wiesenfeld Warehouse Co., a corporation, Jacksonville, Fla.

ALLEGED VIOLATION: Between 1-1-61 and 12-4-61, and while quantities of rice, hamburger mix, and breeding mix were being held for sale after shipment in interstate commerce, the defendant caused the article to be held in a building accessible to rodents, birds, and insects, and caused the articles to be exposed to contamination by rodents, birds, and insects, which resulted in the articles becoming adulterated.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta, insects, insect larvae, insect pupae, and insect cast skins; and 402(a)(4)—held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 8-2-62, the defendant moved to dismiss the information on the grounds that it did not state facts sufficient to constitute an offense and that the statute was unconstitutional as being indefinite, uncertain, and obscure in violation of the Sixth Amendment and as being in violation of the due process clause of the Fifth Amendment.

A hearing was held on the motion on 10-19-62, and on 12-21-62, the district court granted the defendant's motion, issuing the following order (217 F. Supp. 638):

SIMPSON, *District Judge*:

ORDER GRANTING MOTION TO DISMISS

"This cause was taken under advisement on October 19, 1962, on defendant's motion to dismiss made in open court. The plaintiff and defendant now having filed briefs, it appears that said motion should be granted.

"21 U.S.C. 331(k) prohibits the specific acts of alteration, mutilation, destruction, obliteration or removal of the labeling of, a food, drug, device or cosmetic. This enumeration of specific acts is followed by the general term, 'or the doing of any other act.' The information alleges that adulteration was caused by the defendant's act of holding certain food in its warehouse, which was accessible to rodents, birds and insects.

"The government contends that one of the purposes of Congress in enacting Section 331(k) was to prohibit the holding of food after shipment in interstate commerce under insanitary conditions whereby such food may become

*See also Nos. 29707, 29749.

contaminated with filth, and cites House Report No. 807, 80th Congress, 1st Session, July 8, 1947, at page 3 :

‘As so amended the subsection will penalize among other acts resulting in adulteration or misbranding, the act of holding articles under unsanitary conditions whereby they become contaminated with filth or rendered injurious to health.’

“This not only makes one holding such goods an insurer but subjects him to criminal action. Under the rule of construction known as *ejusdem generis*, where a general term follows an enumeration of specific classes of activities, the general term will be limited to the same general nature as those enumerated. The rule is applicable only where intent is not discoverable from the statutory language, and it may not be used to defeat the obvious purpose of legislation. *United States v. Alpers*, 338 U.S. 680 (1950). Congress may have intended the construction advocated by the prosecution, however, the statute, as it is presently written, is too vague and indefinite to apply to the mere act of ‘holding’ goods. In an effort to uphold the statute as constitutional, strict rules of construction must be applied; therefore the information does not allege an offense under Section 331(k), and it is thereupon :

“ORDERED that defendant’s motion to dismiss is granted.

“DONE AND ORDERED in Chambers, at Jacksonville, this 21st day of December, 1962.”

The Government appealed the decision to the Supreme Court which, on 2-17-64, rendered the following opinion (376 U.S. 86) revising the order and remanding for trial :

“MR. JUSTICE STEWART delivered the opinion of the Court.

“Section 301(k) of the Federal Food, Drug and Cosmetic Act prohibits the ‘alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale . . . after shipment in interstate commerce and results in such article being adulterated or misbranded.’¹ Section 402 of the Act provides, among other things, that ‘[a] food shall be deemed to be adulterated (a) . . . (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health . . .’² The question presented by this appeal is whether a criminal information which alleges the holding of foodstuffs by a public storage warehouseman (after interstate shipment and before ultimate sale) under insanitary conditions in a building accessible to rodents, birds and insects, where it may have become contaminated with filth, charges an offense under § 301(k).

“The Government filed a criminal information containing allegations to this effect³ in the District Court for the Middle District of Florida, charging the appellee, a public storage warehouseman, with violations of § 301(k). The court construed § 301(k) as not applying to the mere act of ‘holding’ goods, and dismisses the information for failure to allege an offense under the statute. 217 F. Supp. 638, 639. The order of dismissal was appealed by the Government under the Criminal Appeals Act, which gives this Court jurisdiction to review on direct appeal a judgment dismissing an information on the basis of a

¹ 52 Stat. 1040, 21 U.S.C. § 331(k).

² 52 Stat. 1040, 21 U.S.C. § 342(a) (3) and (4).

³ The information was in six counts, the counts differing only with respect to the particular shipment or product involved. Each count charged that appellee had received an article of food which had been shipped in interstate commerce, and that while this food was being held for sale, appellee caused it to be held in a building accessible to rodents, birds, and insects, thus exposing it to contamination, and thereby adulterating the food within the meaning of § 402(a) of the Act, 21 U.S.C. § 342(a), in that the food consisted in part of a filthy substance, to wit, rodent excreta, insect larvae, etc., and in that it was held under insanitary conditions whereby it may have become contaminated with filth.

‘construction of the statute upon which the . . . information is founded.’⁴ We noted probable jurisdiction. 373 U.S. 921. For the reasons which follow, we reverse the judgment of the District Court.

“In arriving at its construction of the statute, the District Court reasoned that § 301(k) ‘as is presently written, is too vague and indefinite to apply to the mere act of “holding” goods.’ 217 F. Supp., at 639. Accordingly, ‘in an effort to uphold the statute as constitutional,’ the court applied the rule of *ejusdem generis* to limit the words ‘the doing of any other act’ in § 301(k) to acts of ‘the same general nature’ as those specifically enumerated in the subsection, i.e., acts relating to the alteration, mutilation, destruction, obliteration, or removal of the labeling of articles. Ibid. We find such reliance on the rule of *ejusdem generis* misplaced; its application to § 301(k) is contrary to both the text and legislative history of the subsection, and unnecessary to a constitutionally permissible construction of the statute.

“The language of § 301(k) unambiguously defines two distinct offenses with respect to food held for sale after interstate shipment. As originally enacted in 1938, the subsection prohibited ‘the alteration, mutilation, destruction, obliteration, or removal’ of the label, or ‘the doing of any other act’ with respect to the product ‘which results in such article being . . . misbranded.’⁵ The section was amended in 1948 to prohibit additionally ‘the doing of any act’ with respect to the product which ‘results in such article being adulterated.’⁶ The acts specifically enumerated in the original enactment relate to the offense of misbranding through labeling or the lack thereof. The separate offense of adulteration, on the other hand, is concerned solely with deterioration or contamination of the commodity itself. For the most part, acts resulting in misbranding and acts resulting in adulteration are wholly distinct. Consequently, since the enumerated label-defacing offenses bear no textual or logical relation to the scope of the general language condemning acts of product adulteration,⁷ application of the rule of *ejusdem generis* to limit the words ‘the doing of any act’ resulting in product adulteration in § 301(k) to acts of the same general character as those specifically enumerated with respect to misbranding is wholly inappropriate.

“Moreover, the legislative history makes plain that no such application of the rule was intended. As the House Committee Report on the proposed 1948 amendment unequivocally stated:

‘It seems clear that under the subsection as now in force the rule of *ejusdem generis* would not apply in interpreting the words “or the doing of any other act. . . ,” and it is even more clear that this rule will not apply in the interpretation of the subsection as amended by this bill.’⁸

“It is equally clear from this legislative history that Congress intended to proscribe the particular conduct charged in the information filed below—the holding of food under insanitary conditions whereby it may have become contaminated. The House Committee Report noted that the amended section would ‘penalize, among other acts resulting in adulteration or misbranding, the act of holding articles under insanitary conditions whereby they become contaminated with filth or rendered injurious to health,’ and emphasized that

⁴ “An appeal may be taken by and on behalf of the United States from the district courts direct to the Supreme Court of the United States in all criminal cases in the following instances: “From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment or information is founded . . .” 62 Stat. 844, 21 U.S.C. § 3731.

⁵ 52 Stat. 1042, 21 U.S.C. § 331(k). See *United States v. Sullivan*. 332 U.S. 689.

⁶ 62 Stat. 582, 21 U.S.C. § 331(k).

⁷ The House Committee concerned with the proposed amendment to § 301(k) was aware of this textual problem. “The present section 301(k) forbids, first, certain acts with respect to the labeling of an article, and second, ‘any other act with respect to’ the article itself which results in its being misbranded . . . adulteration more often occurs as a result of acts done to or with respect to the article itself. Since the section already contains the broad phrase ‘any other act with respect to’ the article, and since this phrase is not limited by the preceding enumeration of forbidden acts with respect to the labeling, there is no need in making it applicable to adulteration, to change the existing statutory language in this regard.” H.R. Rep. No. 807, 80th Cong., 1st Sess., p. 3.

⁸ *Id.*, at pp. 3–4.

the Committee intended the amendments to be applied to their fullest constitutional limits.⁹

“Congress chose statutory language appropriate to effectuate this purpose. Section 301(k), as amended, prohibits ‘any . . . act’ which results in adulteration of the product. And food is adulterated if it ‘has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.’¹⁰ This language defines with particularity an explicit standard of conduct. Section 301(k), read together with the definition of food adulteration contained in § 402(a)(4), therefore, gives ample warning that the ‘holding’ or storing of food under insanitary conditions whereby it may have become contaminated is prohibited.

“It is settled law in the area of food and drug regulation that a guilty intent is not always a prerequisite to the imposition of criminal sanctions. Food and drug legislation, concerned as it is with protecting the lives and health of human beings, under circumstances in which they might be unable to protect themselves, often ‘dispenses with the conventional requirement for criminal conduct-awareness of some wrongdoing. In the interest of the larger good it puts the burden of acting at hazard upon a person otherwise innocent but standing in responsible relation to a public danger. *United States v. Balint*, 258 U.S. 250.’ *United States v. Dotterweich*, 320 U.S. 277, 281.

“It is argued, nevertheless, that the Government in this case is seeking to impose criminal sanctions upon one ‘who is, by the very nature of his business, powerless’ to protect against this kind of contamination, however high the standard of care exercised. Whatever the truth of this claim, it involves factual proof to be raised defensively at a trial on the merits. We are here concerned only with the construction of the statute as it relates to the sufficiency of the information, and not with the scope and reach of the statute as applied to such facts as may be developed by evidence adduced at a trial.

“Finally, the appellee attempts to uphold the dismissal of the information on a ground not relied on by the District Court. The appellee says that it was a bailee of the food, not a seller, and that it was not holding the food for sale within the meaning of § 301(k). Both the language and the purpose of the statute refute this construction. The language of § 301(k) does not limit its application to one holding title to the goods, and since the danger to the public from insanitary storage of food is the same regardless of the proprietary status of the person storing it, the purpose of the legislation—to safeguard the consumer from the time the food is introduced into the channels of interstate commerce to the point that it is delivered to the ultimate consumer—would be substantially thwarted by such an unwarranted reading of the statutory language. *United States v. Kocmond*, 200 F. 2d 370, 372; cf. *United States v. Sullivan*, 332 U.S. 689, 696; *United States v. Dotterweich*, 320 U.S. 277, 282.

“Accordingly, we hold that a criminal information charging a public storage warehouseman with holding food (after interstate shipment and before ultimate sale) under insanitary conditions whereby it may have become contaminated with filth, charges an offense under § 301(k) of the Federal Food, Drug and Cosmetic Act. The order of the District Court dismissing the information is therefore reversed and the case is remanded to that court for further proceedings consistent with this opinion.”

The case was rescheduled for trial on 6-29-64, at which time the defendant entered a plea of nolo contendere to 1 count of the information, and was fined \$750.

29714. Rice, flour, and marshmallows. (F.D.C. No. 49861. S. Nos. 21-631/2 X, 21-635 X.)

⁹ Id., at p. 6. During the Senate hearings on the amendment, the Associate Commissioner of Food and Drugs explained that “under the bill as enacted here, if there was a definite showing of violation on the part of the warehouse which had this material stored, a prosecution of them criminally for doing the act of holding under these insanitary conditions which result in adulteration could ensue.” Hearing before a Subcommittee of the Committee on Interstate and Foreign Commerce, United States Senate, on S. 1190 and H.R. 4071, 80th Cong., 2d Sess., April 17, 1948.

¹⁰ See note 2, supra.

INFORMATION FILED: 7-21-64, Dist. Colo., against Associated Grocers of Colorado, Inc., Denver, Colo., Fred S. Fishburn, executive vice president and general manager, Jack B. Kennedy, assistant general manager, and Menno R. Duden, plant superintendent.

ALLEGED VIOLATION: Between 5-22-63 and 8-22-63, and while quantities of rice, flour, and marshmallows were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with birds and mice, and to be exposed to contamination by birds and mice thereby causing the articles to become adulterated.

CHARGE: 402(a) (3)—the marshmallows contained mouse excreta, mouse hairs, and gnawed marshmallows; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty by the corporation to 3 counts; by each individual to 1 count.

DISPOSITION: 8-31-64. Corporation—\$900 fine; Fishburn—\$200 fine; Kennedy and Duden—\$150 fine each.

29715. Rice. (F.D.C. No. 50057. S. No. 49-420 A.)

QUANTITY: 27 100-lb. bags at Detroit, Mich., in possession of Edgar's Warehouse, Inc.

SHIPPED: 12-2-63, from Memphis, Tenn.

LIBELED: 4-23-64, E. Dist. Mich.

CHARGE: 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-5-64. Default—destruction.

29716. Rice. (F.D.C. No. 50522. S. Nos. 70-422/23 A.)

QUANTITY: 150 25-lb. bags, and 10 100-lb. bags, at Sioux Falls, S. Dak., in possession of Frank's Transfer & Storage.

SHIPPED: 4-6-64, from Stuttgart, Ark.

LIBELED: 9-15-64, Dist. S. Dak.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-14-64. Default—delivered to a public institution for use as animal feed.

29717. Wheat (2 seizure actions). (F.D.C. Nos. 49436; 49442. S. Nos. 62-731 X; 62-408 X.)

QUANTITY: 126,190 lbs. and 128,000 lbs. in two railway cars at Kansas City, Mo.

SHIPPED: 10-21-63 and 10-25-63, from Walker, Kans., by Nebraska-Kansas-Colorado Grain Co.

LIBELED: 11-4-63 and 11-6-63, W. Dist. Mo.

CHARGE: 402(a) (3)—contained insect-damaged kernels when shipped.

DISPOSITION: 11-19-63 and 11-21-63. Consent—claimed by Mid-Continent Grain Co., Kansas City, Mo. Reconditioned; approximately 34,000 lbs. segregated as unfit.

29718. Wheat. (F.D.C. No. 49050. S. Nos. 34-134 X, 34-405 X.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-24-63, from Amherst, S. Dak., by Farmers Cooperative Elevator Co.

LIBELED: 7-22-63, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 8-12-63. Consent—claimed by Farmers Cooperative Co., Amherst, S. Dak. Segregated and reconditioned; 10,410 lbs. destroyed.

29719. Wheat. (F.D.C. No. 50056. S. No. 57-523 A.)

QUANTITY: 101,600 lbs. at Kansas City, Kans.

SHIPPED: 4-9-64, from Norborne, Mo., by Ray Carroll County Grain Growers, Inc.

LIBELED: 4-28-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-19-64. Consent—claimed by the Farmers Union Cooperative Marketing Association. Reconditioned and segregated; 6,430 lbs. denatured.

29720. Wheat. (F.D.C. No. 50040. S. No. 56-824 A.)

QUANTITY: 31,130 lbs. at Kansas City, Kans.

SHIPPED: 3-28-64, from Gridley, Kans., by L. B. Platt Feed & Produce Co., consigned to a firm at Kansas City, Mo.

LIBELED: 4-9-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-20-64. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Reconditioned and segregated; 1,860 lbs. denatured.

29721. Wheat. (F.D.C. No. 50053. S. No. 57-522 A.)

QUANTITY: 109,200 lbs. at Kansas City, Kans.

SHIPPED: 4-10-64, from Norborne, Mo., by B. F. Knipschild & Bros.

LIBELED: 4-27-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-20-64. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Reconditioned; 8,650 lbs. segregated as unfit.

29722. Wheat. (F.D.C. No. 50092. S. No. 71-695 A.)

QUANTITY: 108,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-5-64, from Hosmer, S. Dak., by Home Grain Co.

LIBELED: 5-18-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-22-64. Consent—claimed by Leo Goehring, t/a Home Grain Co., of Hosmer, S. Dak., and denatured.

29723. Wheat. (F.D.C. No. 50088. S. No. 68-550 A.)

QUANTITY: 118,800 lbs. at Minneapolis, Minn.

SHIPPED: 4-23-64, from Willow City, N. Dak., by Victoria Elevator Co.

LIBELED: 5-18-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-22-64. Consent—claimed by Victoria Elevator Co., Minneapolis, Minn., and denatured.

29724. Wheat. (F.D.C. No. 50093. S. No. 71-010 A.)

QUANTITY: 112,200 lbs. at St. Paul, Minn.

SHIPPED: 5-5-64, from Bowbells, N. Dak., by Farmers Union Cooperative Association.

LIBELED: 5-18-64, Dist. Minn.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions when shipped.

DISPOSITION: 6-3-64. Consent—claimed by Farmers Union Cooperative Association, Bowbells, N. Dak. Reconditioned and segregated; 2,950 lbs. destroyed.

29725. Wheat. (F.D.C. No. 50091. S. No. 57-573 A.)

QUANTITY: 120,000 lbs. at Topeka, Kans.

SHIPPED: 4-24-64, from Havre, Mont., by Farmers Grain Exchange.

LIBELED: 5-20-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-5-64. Consent—claimed by Farmers Grain Exchange, Havre, Mont. Reconditioned; 11,820 lbs. segregated as unfit.

29726. Wheat. (F.D.C. No. 50231. S. No. 71-497 A.)

QUANTITY: 121,900 lbs. at Minneapolis, Minn.

SHIPPED: 5-29-64, from Dupree, S. Dak., by Farmers Cooperative Elevator Co.

LIBELED: 6-16-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-25-64. Consent—claimed by Farmers Cooperative Elevator Co., Dupree, S. Dak., and denatured.

CONFECTIONERY, SUGAR, AND SIRUP

CONFECTIONERY

29727. Raspberry laces, licorice twist, decorettes, and gumbo file. (F.D.C. No. 49775. S. Nos. 50-320 X, 79-041 X, 79-044 X, 79-048 X.)

QUANTITY: 51 ctns., each containing 12 4¼-oz. bags of raspberry laces; 27 ctns., each containing 12 7-oz. bags of licorice twist; 10 ctns., each containing 12 1-oz. bags of decorettes; and 4 ctns., each containing 48 ½-oz. bags of gumbo file; at San Francisco, Calif., in possession of Desert Sun Dried Fruit Co.

SHIPPED: Between 6-26-62 and 10-31-63, from New York, N.Y., St. Louis, Mo., Milton, Mass., and New Orleans, La.

LABELS IN PART: (Bags) "Peter Pan Brand * * * Raspberry Laces [or "Licorice Twist"] Packed by Desert Sun Co., San Francisco, Calif."; and "Desert Sun Decoettes [or "Gumbo File"] * * * Packed By Desert Sun Co. San Francisco, Calif."

RESULTS OF INVESTIGATION: The articles had been shipped as above in bulk and had been repacked by the dealer. All the articles except the gumbo file were contained in clear plastic bags and the mandatory information required to appear on the labels was inconspicuous due to being printed in small type, in ink of a color which did not contrast with the product in the background.

LIBELED: 2-13-64, N. Dist. Calif.

CHARGE: 403(f)—while held for sale, the information required to appear on the labels of the articles (except the gumbo file) under 403(e)(2), 403(i)(2), and 403(k), namely, an accurate statement of the quantity of contents, the common or usual name of each ingredient, and the declaration of artificial flavoring and coloring, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

403(i)(2)—while held for sale, the gumbo file was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: 4-17-64. Default—destruction.

SUGAR AND SIRUP

29728. Dextra Sugar (2 seizure actions). (F.D.C. Nos. 46745, 46746. S. Nos. 107 T, 54-804 T.)

QUANTITY: 119 cases, each containing 12 48-oz. bags, and 449 cases, each containing 12 3-lb. bags, at Tampa, Fla., and Jacksonville, Fla.

SHIPPED: 7-21-61, from Ottawa, Ohio, by Dextra Corp.

LABEL IN PART: (Case) "Dextra Fortified Sugar * * * Dextra Corporation, Ottawa, Ohio," and (bag) "New Dextra Brand Fortified Cane Sugar Fortified with Vitamins and Minerals White-Granulated * * * (4.1 Calories Per Gram) * * * Manufactured and Distributed in Florida by The Sugarlogics Southern Corporation, Delray Beach Florida."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of over 98 percent sucrose.

LIBELED: 12-14-61, S. Dist. Fla.; libel amended 11-30-62.

CHARGE: 403(a)—when shipped, the name of the article was false and misleading, since it suggested and implied that the article was dextrose; 403(a)—the label contained false and misleading representations that the nutritional content of diets generally was significantly improved by use of the article; that the article in the ordinary diet was significantly more nutritious than any other sugar; that the article was of significant value because it restored vitamins and minerals lost in the refinement of cane juice; that all of the vitamins and minerals in the article were present in nutritionally significant amounts for special dietary use; and that the article was manufactured in Florida by the Sugarlogics Southern Corp., Delray Beach, Fla.; 403(a)—the label statement "4.1 calories per gram" was misleading since the specified calorie content of a gram of the article would not be understood by consumers generally, and the statements "Total Sugars (Carbohydrate) not less than 94%" and "Non-sugar solids not more than 6%" were misleading as applied to a product containing over 98 percent sucrose; 403(a)—the label when read in its entirety and through the use of such statements as "New * * * Fortified * * * Sugar," and "Fortified with Vitamins and Minerals," among others, represented, suggested, and implied that the American diet is significantly deficient in vitamins and minerals and that the article would supply the vitamins and minerals necessary to correct the implied deficiencies; and 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient, since it failed to bear the common or usual name of the vitamin and mineral compounds added to the article.

DISPOSITION: The articles were claimed by Sugarlogics Southern Corp. The two actions were consolidated and in January 1962, were transferred to the Miami Division of the Southern District of Florida.

The Government moved to strike all or portions of the claimant's answer on the grounds that the answer was ambiguous, argumentative and verbose, and contained redundant, immaterial, impertinent, and scandalous matter. A hearing was held on the motion on 4-23-62, and the court granted the motion in part, ordering some portions of the answer to be stricken.

On 5-23-62, the claimant filed a consolidated amended answer and cross-libel. The Government moved to strike and a hearing was held on 7-16-62. The court denied the motion to strike the answer, and granted the motion to strike the cross-libel.

On 8-22-62, the Government filed interrogatories which were answered by the claimant.

The matter came on for trial before the court on 11-29-62, and 11-30-62. The Government moved to amend the libel which motion was granted as to the charge that the label represented that the American diet was significantly deficient in minerals and vitamins and that the article would supply that necessary to correct the deficiencies. The court denied the motion to amend to include the charge under 403(a) that the label bore false and misleading statements that the article was cane sugar.

Post trial depositions were taken of expert witnesses unavailable for the trial.

On 2-21-63, the court issued its Findings of Fact and Conclusions of Law together with the following opinion:

CHOATE, *District Judge*: "This proceeding involves the question whether claimant's product, consisting of sugar fortified with vitamins and minerals, is misbranded and in violation of Section 403 of the Federal Food, Drug, and Cosmetic Act. While a number of charges are asserted in the libels of information filed herein, the Government's principal challenge is on a novel basis—that the offering of a fortified sugar, truthfully labeled to disclose such fortification, is misleading 'per se' to consumers. At the outset it is important to note that despite the sweeping nature of the consumer deception which this product is charged to create, the Government at the trial presented no actual evidence that consumers were misled by the product. The Government has chosen to rest its case on opinion evidence of several nutritionists despite the fact that in a seizure proceeding the 'burden is upon the Government to prove the ground for forfeiture alleged in the libel . . . by a fair preponderance of the evidence.' See, e.g., *United States v. 46 Cases, More or Less, Etc.*, 204 F. Supp. 321, 322 (D. R.I. 1962). It is clear that the Government failed to meet its burden in this case.

"The Government's witnesses' testimony was largely directed to their views regarding the most preferable means of supplying vitamins and minerals to consumers, and whether the fortification of sugar complied with a Statement of General Policy on fortification issued by the Food and Nutrition Board of the National Research Council. Such testimony plainly is not pertinent here. Section 403 of the Federal Food, Drug and Cosmetic Act permits the seizure and condemnation of goods only if they are *misbranded*, and that plainly means only if the labeling of the product is *false or misleading*.

"Section 301 of the Act merely empowers the Food and Drug Administration to issue 'a reasonable definition and standard of identity' so that consumers who purchase it can obtain 'assurance that they will get what they reasonably expect to receive'. See *Federal Security Administrator v. Quaker Oats Co.*, 318 U.S. 218, 232 (1943). Such standards have no bearing on the sale of a single, unique food product such as Dextra Brand Fortified Sugar.

"The Government charges that 'mere mention' on the labels of Dextra Brand Fortified Sugar of the fact that the product is fortified and the listing of the vitamins and minerals contained therein could be construed by consumers to

suggest or imply that vague generality known as the 'American diet' is deficient in the supply of vitamins and minerals, and that use of this product would overcome this deficiency.

"The Government also challenges the product as inherently deceptive on the ground that the disclosures regarding fortification misrepresent the product's nutritional significance in comparison with ordinary sugar. However, the Government's witnesses did not dispute that this product is an effective carrier of the vitamins and minerals added to respondent product, and that ordinary sugar contains none of these nutrients, and is commonly referred to in nutritional literature by the derogatory term, 'empty calories'. Indeed, the Government's own witnesses appeared to concede that in comparison with ordinary sugar, the product in fact was *significantly* more nutritious.

"The sole basis of the Government's charges is that the added nutrients are of no value because they are already in adequate supply in the American diet. This is clearly an untenable basis for holding the product misbranded.

"It is clear that the true basis for the objection to the fortification of sugar is not that the vitamins and minerals added to the sugar are of no nutritional value, but rather, that the Food and Drug Administration does not regard sugar as a preferable vehicle for fortification, or for addition of vitamins where a deficiency exists. In short they quarrel over the vehicle.

"The basic flaw in the Government's case against the product is that it is seeking, under the guise of misbranding charges, to prohibit the sale of a food in the marketplace simply because it is not in sympathy with its use. But the Government's position is clearly untenable. The provisions of the Federal Food, Drug, and Cosmetic Act did not vest in the Food and Drug Administration or any other federal agency the power to determine what foods should be included in the American diet; this is the function of the marketplace. Under Section 403 of the Act, Congress expressly limited the Government's powers of seizure to those products which are falsely or deceptively labeled. As the Supreme Court aptly stated in rejecting a similar attempt to overreach the authority granted by the Federal Food, Drug, and Cosmetic Act:

In our anxiety to effectuate the congressional purpose of protecting the public, we must take care not to extend the scope of the statute beyond the point where Congress indicated it would stop. *United States v. 62 Cases, Etc.*, 340 U.S. 593, 600 (1951).

"The Court does not undertake to constitute itself an arbiter of nutritional problems involved in determining more or less desirable agents for vending vitamin and mineral supplements to the consumer. The Congress did not provide the necessity of such determination. Neither will the Court permit a federal agency to appoint itself such an arbiter under the guise of prosecuting an action under the Act in question. Plainly only Congress can or should regulate the use of vitamins and then only to prevent public injury."

The Government filed a notice of appeal, and the claimant moved for return of the article under seizure. The claimant's motion was granted on 5-8-63, by order of the court, except as to one case of sugar in each of the original actions.

The Government moved to stay the execution of the order, and on 8-12-63, the United States Court of Appeals for the Fifth Circuit granted the stay.

Oral argument on the appeal was heard on 5-6-64, and on 7-9-64, the court rendered the following opinion (334 F. 2d 238) :

Before TUTTLE, *Chief Judge*, WISDOM, *Circuit Judge*, and McRAE, *District Judge*.

PER CURIAM: "This case on appeal presents a very narrow issue. Brought under Section 304 of the Federal Food and Cosmetic Act, 21 U.S.C.A. § 334, the litigation was commenced by a seizure of certain cases of Dextra Brand Sugar. The sugar was alleged to have been misbranded within the meaning of Section 403(a) of the Act, 21 U.S.C.A. § 343(a), in that its label contained statements which were false or misleading. Although the Government charged initially that a number of the claims made on the face of the plastic bags in which the sugar was packed were misleading, these have all been abandoned

on appeal, except the statement, 'Almost any diet can be nutritionally improved by the use of DEXTRA Fortified Cane Sugar in place of sweetening agents containing only "empty" calories—calories unaccompanied by nutrients.'

"The Government based its entire case here on the proposition that proof below showed that the average American diet is adequate without the need to be 'nutritionally improved.' Therefore, it is argued, it is false to say that 'almost any [person's] diet can be nutritionally improved by the use of' dextra fortified cane sugar or anything else. The appeal also complains that the trial court erred in admitting certain evidence in the nature of studies and articles which were offered without an opportunity for cross-examination of the authors of the articles, and the Government also complained of the introduction into evidence of subsequent statements placed on packages later adopted by the owner of the seized product and proof that other products on the American market contained somewhat similar statements.

"In light of the fact that any purchaser of food products could elect to maintain his present 'average' diet with sufficient nutrients in it, or, if he wished, change to a different diet and substitute dextra fortified cane sugar for some other item, we conclude that the trial court was not in error in finding as a fact that the challenged statement was not false and misleading.

"We conclude that the alleged errors with respect to the admission of evidence are insubstantial and do not bear upon the correctness of the finding of fact which was dispositive of the case.

"The judgment of the trial court is, therefore,

AFFIRMED."

29729. Sorghum sirup. (F.D.C. No. 49819. S. Nos. 33-410/11 A.)

QUANTITY: 96 cases, each containing 12 cans, and 12 cases, each containing 24 cans, at Fayetteville, Tenn.

SHIPPED: Between 9-28-63 and 10-17-63, from Fayette, Ala., by B. E. Cobb.

LABEL IN PART: (Can) "Cobb's—Country Sorghum—Guaranteed Good No Additives—Net Wt. 3 Pt., 4 Fluid Oz. or [12 Case Lot "Net Contents 12 Fluid Oz.]" B. E. Cobb * * * Fayette, Ala."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately (96-case lot) 6.81 percent, and (12-case lot) 12.67 percent, short volume.

LIBELED: 3-9-64, E. Dist. Tenn.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents since the label statement "Net Wt. 3 Pt. 4 Fluid Oz." [or 12-case lot "Net Contents 12 Fluid Oz.]" was inaccurate.

DISPOSITION: 7-31-64. Consent—claimed by B. E. Cobb for relabeling.

29730. Sorghum sirup. (F.D.C. No. 50293. S. No. 59-240 A.)

QUANTITY: 128 4½-lb. cans at Overland Park, Kans.

SHIPPED: 11-29-63, from Kansas City, Mo., by Glen Broyles.

LABEL IN PART: (Can) "Country Sorghum * * * Made From Cane Juice Made For Glen Broyles, Distr. * * * Kansas City 18, Mo."

LIBELED: 6-17-64, Dist. Kans.

CHARGE: 402(b) (2)—when shipped, a mixture of sorghum and a sugar sirup had been substituted in whole or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product consisting of a mixture of sorghum with a sugar sirup.

DISPOSITION: 9-21-64. Default—delivered to a Government institution.

29731. Malt-flavored sirups. (F.D.C. No. 49670. S. Nos. 78-326/28 X.)

QUANTITY: 3 cases, each containing 12 1-qt. btls. of Harmon's Instant Portion Control malt-flavored sirup; 10 cases, each containing 4 1-gal. jars. of Quik Thik Instant Portion Controlled malt-flavored sirup; 10 cases, each containing 4 1-gal. tins of Harmon's Instant Portion Control malt-flavored sirup; at Redwood City, Calif.

SHIPPED: Between 6-1-63 and 9-30-63, from McCook, Nebr., by Grain Products Corp.

LABELS IN PART: (Btl.) "Harmon's Instant Portion Control Liquid Malt * * * Ingredients: Water, Sugar, Malted Barley, Malt Syrup, 1% Benzoate of Soda * * * Manufactured by Grain Products Corp. McCook Nebr." (some labels had the addition of 0.1% Methylparaben and the obliteration of Benzoate of Soda); (jar) "Quik Thik Instant Portion Controlled Liquid Malt * * * A High Energy Food * * * Ingredients: Water, Corn Syrup, Malt 0.1% Potassium Sorbate as a chemical preservative * * * Manufactured by Grain Products Corporation McCook, Nebraska"; and (tin) "Harmon's Instant Portion Control Liquid Malt Ingredients: Corn Syrup Solids, Water, Malted Barley, Malt Syrup, less than .1% Sorbic Acid and Potassium Sorbate as a chemical preservative Manufactured by Grain Products Corporation McCook, Nebraska."

RESULTS OF INVESTIGATION: Examination shows that the articles were malt-flavored sirups. Further examination showed that the 3-case lot contained methyl parahydroxybenzoate (methylparaben) in place of benzoate of soda. Factory inspection disclosed that the articles contained water, malt sirup, malt flavor, corn sirup, and a chemical preservative.

LIBELED: 1-9-64, N. Dist. Calif.

CHARGE: Harmon's Instant Portion Control malt-flavored sirup (3-case lot of btls.), 403(a)—when shipped, the name of the article "Instant * * * Liquid Malt" was false and misleading, since the article consisted of water, sugar, malted barley, malt sirup and methylparaben; and in that the label falsely states the presence of sodium benzoate; 403(f)—the information required to appear on the label under 403(e) (1) and 403(i) (2), namely, the name and place of business of the manufacturer, packer, or distributor, and the common or usual name of each ingredient, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use; and 403(i) (2)—the article contained a preservative, methylparaben, and the label failed to state that fact.

Quik Thik malt-flavored sirup (10-case lot of jars), 403(a)—when shipped, the name of the article "Instant Liquid Malt" and the label statement "A high energy food" were false and misleading for an article consisting of water, corn sirup, malt and potassium sorbate.

Harmon's Instant Portion Control malt-flavored sirup (10-case lot of tins), 403(a)—when shipped, the name of the article "Instant Liquid Malt" was false and misleading, since the article consisted of corn sirup solids, water, malted barley, malt sirup, sorbic acid and potassium sorbate.

DISPOSITION: 2-27-64. Default—delivered to a charitable institution for use in the institution, but not for resale.

29732. Molasses, vitamin-mineral tablets, and canned sliced papaya. (F.D.C. No. 49782. S. Nos. 50-745 X, 50-751 X, 50-754 X.)

QUANTITY: 256 cases, each containing 24 15-oz. jars, and 303 cases, each containing 12 1-pt. 15-oz. jars of molasses; 11 360-tablet btls., and 9 90-tablet btls., of vitamin-mineral tablets; and 4 cases, each containing 24 9-oz. cans of sliced papaya, at San Francisco, Calif.

SHIPPED: The molasses was shipped 8-15-62, from Newark, N.J., by Plantation Foods, Inc., the vitamin-mineral tablets between 10-26-61 and 2-19-63, from Portland, Oreg.; and the sliced papaya between 1-1-60 and 12-31-64, from Honolulu, Hawaii.

LABEL IN PART: (Jar) "Plantation 'The Original' Brand A Good Source Of Iron Blackstrap Molasses * * * Dist. By Plantation Foods, Inc., Newark, N.J."

LIBELED: 2-13-64, N. Dist. Calif.

CHARGE: 403(a)—when shipped, the label of the molasses contained false and misleading representations that that article in tablespoonful amounts was adequate and effective by reason of its iron content to build red blood, prevent nutritional anemia due to lack of iron, promote buoyant health; and by reason of its calcium content to promote growth of children; build strong bones and teeth, promote steady nerves, and was especially beneficial during pregnancy and lactation; and by reason of its vitamin B₁ content, to promote a good appetite; and promote steady nerves; and in the manner in which it was used in ordinary diet, provided significantly more iron than beef liver; and supplied a high mineral content generally for special dietary supplementation.

402(a) (2) (C)—while held for sale, the vitamin-mineral tablets contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

402(a) (3)—while held for sale, the canned papaya slices contained decomposed papaya.

DISPOSITION: 6-11-64. Consent as to the molasses—claimed by Plantation Foods, Inc., for relabeling; default and destruction as to the vitamin-mineral tablets and the sliced papaya.

DAIRY PRODUCTS

BUTTER

29733. Butter (2 seizure actions). (F.D.C. Nos. 50194; 50195. S. Nos. 58-161 A; 80-899 A.)

QUANTITY: 78 64-lb. ctns. and 25 64-lb. ctns. at New York, N.Y.

SHIPPED: 7-31-64 and 8-28-64, from Hartley, Iowa, by Hartley Creamery Co.

LABEL IN PART: (Ctn.) "Creamery Butter Keep Refrigerated Butter Distributed by Zenith-Godley Company New York."

LIBELED: On or about 9-21-64 and on 8-18-64, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained a filthy substance when shipped.

DISPOSITION: 10-14-64 and 9-25-64. Default—destruction.

29734. Butter. (F.D.C. No. 50193. S. No. 57-776 A.)

QUANTITY: 21 64-lb. boxes at St. Paul, Minn.

SHIPPED: 9-25-64, from Rock Rapids, Iowa, by Rock Rapids Cooperative Creamery Association.

LABEL IN PART: (Box) "Butter L. D. Schreiber & Co., Inc. Sales Agent For The Marketing Association of America A Cooperative Distributor Chicago, Illinois."

LIBELED: 10-2-64, Dist. Minn.

CHARGE: 402(b)(2)—when shipped, a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 11-2-64. Consent—claimed by the Marketing Association of America, Chicago, Ill., for reworking.

29735. Butter. (F.D.C. No. 47655. S. Nos. 25-004/7 A.)

QUANTITY: 1,302 64-lb. boxes at Chicago, Ill.

SHIPPED: Between 1-23-64 and 2-1-64, from Arcadia, Wis., by Dairy Maid Products Cooperative.

LABEL IN PART: (Boxes) "Creamery Butter A & G Coop. Creamery."

LIBELED: 3-13-64, N. Dist. Ill.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 4-14-64. Consent—claimed by Dairy Maid Products Cooperative and rechurned.

29736. Butter. (F.D.C. No. 50189. S. No. 26-530 A.)

QUANTITY: 81 64-lb. boxes at Chicago, Ill.

SHIPPED: 7-29-64, from Omaha, Nebr., by Burwell Butter Factory.

LABEL IN PART: (Box) "Butter Creamery Butter Berkshire Foods, Inc."

LIBELED: 8-12-64, N. Dist. Ill.

CHARGE: 402(b)(2)—when shipped, a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-28-64. Consent—claimed by Berkshire Foods, Inc., for reworking.

CHEESE

29737. Cheddar cheese. (Inj. 409.)

COMPLAINT FOR INJUNCTION FILED: 8-9-61. Dist. N. Dak., against Rugby Creamery Co., a corporation, Rugby, N. Dak., and Albert M. Nielsen, president.

CHARGE: The complaint alleged that the defendants had been and were then engaged in operating a cheese factory producing cheddar cheese; that the plant received an average of 25,000 pounds of raw milk daily which as received, was dumped into a scale tank, pumped through a cloth inline strainer onto a plate cooler, and from there to a 40,000-pound holding tank where it remained until the following morning; and after pasturization at 160° F. for 16 to 17 seconds the milk was pumped to the cheese vat for manufacturing; that all of the cheddar cheese manufactured at the plant was shipped to New Ulm, Minn.; and that the cheese was adulterated within the meaning of 402(a)(3) by reason of the use of dirty, contaminated milk in its preparation, when caused to be introduced and delivered for introduction into interstate commerce.

The complaint alleged further that during one inspection by Food and Drug inspectors, off-the-bottom sediment tests were made on 170 cans of milk, totalling 1,510 gallons representing 37.7 percent of the milk received from 92 percent of the firm's patrons; that all cans tested disclosed varying

degrees of filth in the form of manure, dirt, and insects; that approximately 25 percent of the milk received on the day of the inspection, namely, 129 cans totaling 1,000 gallons, was rejected by the firm as unfit; and that after approximately 30,000 pounds had passed through the cloth filter at the discharge into the holding tank, that filter was collected by the inspectors for examination in the laboratory, which revealed the presence of two housefly heads, whole insects, insect fragments, four rodent hairs, plant fragments, and some 175 to 200 manure fragments.

The complaint alleged further that during a second inspection, off-the-bottom sediment tests were made on 175 cans of milk, totalling 1,522 gallons, representing 30 percent of the milk received that day; that all the cans tested at that time disclosed varying degrees of filth and as a result of that test, a total of 82 cans or approximately 800 gallons were rejected by the firm; that the cloth filter between the scale tank and the vat was collected and examination in the laboratory showed 10 whole insects, 25 insect fragments, 5 rodent hair fragments, 10 cow hairs, 2,500 plant fragments and about 350 manure fragments. Despite the warnings from such inspections the complaint alleged that the firm failed to reject grossly contaminated milk.

DISPOSITION: On 8-9-61, a temporary restraining order was issued by the court which restrained and enjoined the defendants, their officers, agents, servants, employees, representatives and all other persons in active concert or participation with them or any of them from directly or indirectly introducing or causing to be introduced, and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, cheddar cheese, or any similar article of food, which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance or which has been manufactured from filth-contaminated, dirty, or otherwise unfit milk; and further, from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, cheddar cheese, or any similar article of food, manufactured at defendants' cheese factory at Rugby, N. Dak., unless and until such measures are taken as will insure acceptance of clean milk, free of sediment and other foreign matter, and the rejection of other milk.

On 8-22-61, the defendants having consented, a decree of permanent injunction restraining the defendants as set forth in the temporary restraining order was entered.

On 5-15-64, the decree was dismissed and vacated.

29738. Cheddar cheese. (F.D.C. No. 50330. S. Nos. 744/47 A, 1-458/59 A, 4-149/50 A.)

QUANTITY: 378 boxes, each containing 4 10-lb. ctns., at Decatur, Ga.

SHIPPED: 4-21-64, from Houston, Miss., by Kraft Foods.

LABEL IN PART: (Box) "Kay Brand Mild Cheddar Cheese * * * Kraft Foods Dist. Chicago 90, Ill."; and (ctn.) "Kay Brand Natural Cheddar Cheese * * * Kraft."

LIBELED: 7-6-64, N. Dist. Ga.

CHARGE: 402(a)(2)(C)—when shipped, the article contained DDT, TDE, and DDE, food additives which were unsafe within the meaning of 409, since they and their use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 10-27-64. Default—destruction.

FEEDS AND GRAINS

29739. Medicated feed. (F.D.C. No. 47834. S. No. 3-014 T.)

INFORMATION FILED: 1-8-63, Dist. Md., against Sherwood Feed Mills, Inc., Baltimore, Md., E. F. Sherwood Dickinson, president, and S. Jones Dickinson, vice president.

SHIPPED: 6-7-61, from Baltimore, Md., to Fredericksburg, Va.

LABEL IN PART: (Bags) "Sherwood Feeds Starter-Grower Crumbles Active Drug Ingredient: Zoalene (3, 5-dinitro-o-toluamide . . . 0.0125% Manufactured by Sherwood Feed Mills, Inc. Baltimore, Md., U.S.A. 100 Lbs. Net Weight."

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, zoalene, which was unsafe within the meaning of 409 since there was in effect a regulation issued under 409 prescribing the conditions under which the food additive might be safely used and the food additive and its use or intended use were not in conformity with that regulation, since the article was a finished medicated feed containing zoalene and its label failed to bear a statement of the appropriate concentration or strength of the zoalene in the food and a statement that the food should not be fed to laying hens.

This article and another medicated feed were also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7890.

PLEA: Nolo contendere.

DISPOSITION: 4-10-64. Corporation—\$1,300 total fine; each individual—\$100 fine.

29740. Medicated feed. (F.D.C. No. 49635. S. No. 62-726 X.)

QUANTITY: 72 50-lb. bags, at Clay Center, Kans., in possession of Key Milling Co., Inc.

SHIPPED: An active drug ingredient of the article, arsanilic acid, had been shipped from Charles City, Iowa, on an unknown date.

LABEL IN PART: (Tag on bag) "Keytone Medicated 1. For the prevention of chronic respiratory disease (Air-sac infection) and hexamitiasis in poultry, and swine enteritis when fed continuously. * * * Active Drug Ingredients Chlortetracycline (Aureomycin) equivalent to Chlortetracycline Hydrochloride .50 grams per pound (100 grams per ton). 3-Nitro-4 Hydroxyphenylarsonic Acid 0.01% * * * Manufactured by Key Milling Co., Inc. Clay Center, Kansas."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately .022 percent of arsanilic acid. Inspection of the manufacturer showed that arsanilic acid has been substituted for 3-nitro-4-hydroxyphenylarsonic acid. The article had been manufactured by the dealer who used arsanilic acid which had been shipped as above.

LIBELED: 12-20-63, Dist. Kans.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, arsanilic acid, at the level of .022 percent, which, under the directions of continuous feeding, was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption.

The libel alleged also that the article was adulterated and misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7919.

DISPOSITION: 3-12-64. Default—destruction.

29741. Millet seed. (F.D.C. No. 49566. S. No. 32-494 X.)

QUANTITY: 64 100-lb. bags at Alhambra, Calif., in possession of El Molino Mills.

SHIPPED: 10-14-63, from Otis, Colo.

LIBELED: 12-18-63, S. Dist. Calif.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-21-64. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

29742. Glaced cherries, maraschino cherries, and glazed diced fruit. (F.D.C. No. 47867. S. Nos. 8-921 R, 11-066 R, 21-431 R, 21-434 R, 9-076 T, 9-577 T, 9-587 T, 39-746 T.)

INDICTMENT RETURNED: 3-4-63, W. Dist. Pa., against Ohio Fruit Products Co., Inc., North East, Pa., and Fred L. Rahal, general manager.

SHIPPED: Between 2-29-60 and 11-4-61, from North East, Pa., to Cleveland and Bay Village, Ohio, and Gasport, Buffalo, Perry and Brooklyn, N.Y.

LABEL IN PART: (Can) "Garden of Eden Glaced Cherries [or "Glaced Diced Fruit"] Net Weight 35 Lbs. Packed by Ohio Fruit Products Co., Inc., North East, Pa."; (pail) "50 LBS. Med. Crushed Mara. Cherries From Ohio Fruit Prod. North East, Pa."; (bbl.) "350 LBS. Mara Cherry Halves From the Ohio Fruit Prod. Co. North East, Penna."; (can) "5 Gal. Mara. Cherry Slices Packed by Ohio Fruit Prod. Co. North East, Pa."; and (can) "35 LBS. Diced Fruit Mix No. 3 Ohio Prod. Co. No. East. Pa."

CHARGE: 402(a)(3)—contained insects, insect fragments, maggots, fly eggs, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-18-63. Corporation—\$5 fine; individual—\$25 fine, plus costs.

29743. Canned peaches. (F.D.C. No. 50301. S. No. 3-013 A.)

QUANTITY: 851 cases, each containing 24 1-lb. 13-oz. cans, at Ocala, Fla.

SHIPPED: Between 3-20-64 and 3-30-64, from Tabor City, N.C., by Corbett Canning Co., Inc.

LABEL IN PART: (Can) "Corbett's Polly Peach Brand Peaches Yellow Free-stone Halves in Light Syrup * * * Packed by Corbett Canning Company, Inc. Tabor City, North Carolina Cecelia, Louisiana."

LIBELED: 6-29-64, M. Dist. Fla.

CHARGE: 403(g)(2)—when shipped, the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the optional packing medium present in such food, as required by regulations, since its label bore the statement "in light syrup" whereas the article was packed in a medium designated as slightly sweetened water.

DISPOSITION: 8-11-64. Consent—claimed by Corbett Canning Co., Inc., for relabeling.

29744. Canned cherries. (F.D.C. No. 50288. S. Nos. 31-436/9 A.)

QUANTITY: 47 cases of 24 1-lb. 3-oz. cans each, and 10 cases of 24 1-lb. cans each of red tart cherries, and 6 cases of 24 1-lb. cans and 6 cases of 24 1-lb. 5-oz. cans each, of montmorency cherries, at Vincennes, Ind.

SHIPPED: 8-9-61, from Hartford, Mich., and Benton Harbor, Mich.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 6-11-64, S. Dist. Ind.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-28-64. Default—destruction.

DRIED FRUIT

29745. Currants. (F.D.C. No. 49660. S. No. 97-086 X.)

QUANTITY: 38 25-lb. boxes, at Providence, R.I.

SHIPPED: 12-4-62, from Fresno, Calif.

LIBELED: On or about 12-31-63, Dist. R.I.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-24-64. Default—destruction.

29746. Pitted dates. (F.D.C. No. 50085. S. No. 96-652 A.)

QUANTITY: 99 70-lb. cases and 103 35-lb. cases at San Francisco, Calif., in possession of Oceanic Forwarding Co.

SHIPPED: 11-11-63, from Basra, Iraq.

LIBELED: 5-8-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-27-64. Consent—claimed by Jensen-McLean Co., Inc., of Seattle, Wash. Segregated; 2,095 lbs. converted into animal feed.

29747. Dates, date products, smoked sausage, and fried pork skins. (F.D.C. No. 50101. S. Nos. 61-895/900 A, 62-231 A, 62-233 A, 62-235 A, 62-237/8 A.)

QUANTITY: 79 reused, unlabeled, 15-lb. cases of date nut rolls; 500 lbs. of bulk dates in wooden boxes and plastic bags; 7 wooden lugs, each containing 20 1-lb. bags of date sugar; 6 wooden lugs, each containing 6 3-lb. bags of date sugar; 3 wooden lugs, each containing 16 1-lb. bags of date flakes; 46 cardboard trays, each containing 12 individually wrapped 1-lb. baskets of date nut rolls; 496 1-lb. bags of dates; 850 lbs. of bulk dates in trays and in open, reused ctns.; 4 ctns., containing approximately 43 display cards, each card containing 24 bags of smoked sausage; 5 ctns., each containing 12 display cards, each card containing 12 bags of fried pork skins, and 45 display cards, each containing 12 bags of chili-flavored fried pork skins, at Mesa, Ariz., in possession of Hi-Jolly of Arizona, Inc.

SHIPPED: Between 1-1-61 and 4-23-64 (smoked sausage and fried pork skins), from Oakland, Calif., and (dates) from unknown places in the State of California.

LABELS IN PART: (Bags of dates) "Hi-Jolly of Arizona, Inc. Dates * * * Mesa, Arizona."; (tag on bags of date sugar and date flakes) "Hi-Jolly Date Sugar [or "Date Flakes"] Packed by Hi-Jolly Date Gardens * * * Mesa,

Arizona"; and (insert label in baskets of date nut roll) "Hi-Jolly Date Gardens Date Nut Rolls Ingredients * * * Mesa, Arizona."

RESULTS OF INVESTIGATION: The dates, date sugar, and date flakes had been repacked by the dealer from bulk lots, and the date nut rolls had been prepared by the dealer from bulk dates, bulk coconut, and other components.

LIBELED: 5-5-64, Dist. Ariz.

CHARGE: 402(a) (3)—while held for sale, all the articles except the 1-lb. bags of date sugar contained rodent hairs, rodent pellets, or rodent-gnawed products, and 402(a) (4)—all the articles held under insanitary conditions.

DISPOSITION: 6-22-64. Default—destruction.

29748. Dried orange peel. (F.D.C. No. 50083. S. No. 61-311 A.)

QUANTITY: 36 175-lb. bags at Los Angeles, Calif.

SHIPPED: 6-8-63, from Murcia, Spain.

LIBELED: 5-8-64, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects, insect pupae, larvae, and excreta while held for sale.

DISPOSITION: 8-4-64. Default—delivered to a public institution for use as animal feed.

VEGETABLES AND VEGETABLE PRODUCTS

29749. Dried kidney beans, rice, unshelled peanuts, and popcorn bunnies. (F.D.C. No. 49185. S. Nos. 22-102/3 X, 22-105 X, 22-107/8 X.)

INFORMATION FILED: 3-24-64, Dist. Utah, against Associated Food Stores, Inc., Salt Lake City, Utah, and Donald P. Lloyd, executive vice president.

ALLEGED VIOLATIONS: Between 11-23-62 and 6-12-63, while quantities of kidney beans, rice, unshelled fancy peanuts, unshelled jumbo peanuts, and popcorn bunnies were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with rodents, and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—the rice contained mouse pellets and mouse urine, and the popcorn bunnies contained mouse pellets; and 402(a) (4)—all the articles held under insanitary conditions.

PLEA: Guilty by the corporation to all counts and by the individual to the count involving the rice.

DISPOSITION: 10-6-64. Corporation—\$500 fine; individual \$100 fine.

29750. Dried pinto beans and dried Great Northern beans. (F.D.C. No. 50256. S. Nos. 41-796/7 A.)

QUANTITY: 11 100-lb. bags of pinto beans and 16 100-lb. bags of Great Northern beans at Krebs, Okla., in possession of S.D. Giacomo Co.

SHIPPED: 9-4-63, from Morrill, Nebr.

LIBELED: 7-15-64, E. Dist. Okla.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 8-12-64. Default—destruction.

29751. Canned green beans. (F.D.C. No. 50066. S. No. 85-015 A.)

QUANTITY: 295 cases, each containing 24 14½-oz. (or 15-oz.) cans, at Siloam Springs, Ark.

SHIPPED: 3-3-64, from Detroit, Mich. This was a return shipment.

LABEL IN PART: (Can) "The Allens Cut Green Beans * * * Allen Canning Company Packers & Distributors, Siloam Springs, Arkansas."

LIBELED: 4-29-64, W. Dist. Ark.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans prescribed by regulations, since there were more than 8 percent by count of blemished units in the article, and its label failed to bear in such manner and form as such regulations specify, a statement that it fell below such standard.

DISPOSITION: 6-17-64. Default—delivered to a charitable organization.

29752. Canned green beans. (F.D.C. No. 49853. S. No. 6-423 A.)

QUANTITY: 584 cases, each containing 24 1-lb. 12-oz. cans, at Martinsville, Va.

SHIPPED: 8-16-62, from Baltimore, Md., by H. J. McGrath Co.

LABEL IN PART: (Can) "Saint Elmo Brand Cut Green Beans * * * Distributed by Lakewood Food Products Co. Baltimore, Md."

LIBELED: 3-30-64, W. Dist. Va.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quantity for canned cut green beans prescribed by regulations, since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below such standard.

DISPOSITION: 7-23-64. Consent—claimed by Smith Wholesale, Inc., Martinsville, Va., for relabeling.

29753. Pickled cherry peppers. (F.D.C. No. 50388. S. No. 12-720 A.)

QUANTITY: 32 cases, each containing 12 unlabeled 1-qt. jars, at Providence, R.I.

SHIPPED: 3-27-64, from Swansea, Mass., by Star Pickling Corp.

LIBELED: 7-16-64, Dist. R.I.

CHARGE: 402(a)(3)—contained insect parts, insect larvae, and maggots when shipped.

DISPOSITION: 8-31-64. Default—destruction.

29754. Sliced green peppers. (F.D.C. No. 50151. S. No. 13-216 A.)

QUANTITY: 241 cases, each containing 12 unlabeled 1-qt. jars, at Providence, R.I.

SHIPPED: 4-3-64, from Swansea, Mass., by Star Picking Corp.

LIBELED: 6-5-64, Dist. R.I.

CHARGE: 402(a)(3)—contained insects and insect fragments when shipped.

DISPOSITION: 7-16-64. Default—destruction.

29755. Sweet wax peppers. (F.D.C. No. 50034. S. No. 60-552 A.)

QUANTITY: 518 1-pt. jars at Sun Valley, Calif.

SHIPPED: On unknown date, from New Iberia, La., by Bruce's Foods Co.

LABEL IN PART: (Jar) "Gourmet's Delight Sweet Wax Peppers * * * Distributed by Gourmet's Delight Los Angeles 31, Calif."

RESULTS OF INVESTIGATION: The article had been shipped as above in 8-oz. jars and subsequently repacked at Los Angeles.

LIBELED: 3-30-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insect fragments, insect parts, and insect pupae when shipped.

DISPOSITION: 4-29-64. Default—destruction.

29756. Sweet banana peppers and hot banana peppers. (F.D.C. No. 49807. S. Nos. 50-940 A, 51-141/2 A.)

QUANTITY: 40 cases, each containing 12 1-pt. jars, and 31 cases, each containing 12 1-qt. jars of hot banana peppers; and 29 cases, each containing 12 1-qt. jars of sweet banana peppers, at Bedford Heights, Ohio.

SHIPPED: 1-9-64 and 1-31-64, from Bridgeport, Mich., by Crown Foods, Inc.

LABEL IN PART: (Jar) "Seaway Hot [or "Sweet"] Banana Peppers Contains Peppers, Distilled Vinegar, Salt, Spices, Alum, Tumeric and 'Polysorbate 80' Distributed by Seaway Foods, Inc., Cleveland Ohio."

RESULTS OF INVESTIGATION: The articles consisted of yellow and/or red peppers in a yellow liquid which contained the color additive FD&C Yellow No. 5.

LIBELED: 2-20-64, N. Dist. Ohio.

CHARGE: 403(k)—when shipped, the article contained artificial coloring, namely, FD&C Yellow No. 5, and its label failed to state this fact.

DISPOSITION: 3-26-64. Default—ordered delivered to charitable institutions.

29757. Sauerkraut. (F.D.C. No. 50258. S. No. 68-706 A.)

QUANTITY: 600 1-lb. 12-oz. Pliofilm bags at Minneapolis, Minn.

SHIPPED: 6-16-64, from Waterloo, Wis., by J. G. Van Holten & Son, Inc.

LABEL IN PART: (Bag) "Noon Hour Brand * * * Kraut * * * Distributed by Noon Hour Food Products Chicago 6, Ill."

LIBELED: 7-17-64, Dist. Minn.

CHARGE: 402(a)(3)—contained insects, insect fragments, and maggots when shipped.

DISPOSITION: 8-31-64. Default—destruction.

29758. Dehydrated potato flakes. (F.D.C. No. 48809. S. No. 32-935 V.)

QUANTITY: 213 cases, each containing 24 7-oz. pkgs., at Los Angeles, Calif., and 139 cases, each containing 24 7-oz. pkgs., at San Fernando, Calif.

SHIPPED: Between 11-20-62 and 3-4-63, from Barnesville, Minn., by Gateway Flakes, Inc.

LABEL IN PART: (Pkg.) "Gateway Farms Instant Whipped Potato Flakes 12 Big Servings 7 Ounces Net Weight * * * 2 Foil Fresh Envelopes—6 Servings in each * * * One envelope serves 6: Double Recipe to serve 12 * * * Make ½ cup according to single serving recipe * * * Gateway Flakes, Inc., Plant, Barnesville, Minnesota"; (envelopes inside pkg.) "3½ Oz. Net. Gateway Farms Instant Whipped Potato Flakes Directions: * * * One Envelope serves 5 Double Recipe to serve 10 * * * Gateway Farms Inc. Barnesville, Minn. Sales Office, Minneapolis, Minn."

LIBELED: 3-14-63, S. Dist. Calif.; libel amended on or about 3-20-64.

CHARGE: 403(a)—when shipped, the labeling of the article was false and misleading since the statements on the package label, “12 big servings” and “One envelope serves 6: Double recipe to serve 12” were inconsistent with the statement on the envelope label, “One envelope serves 5—Double recipe to serve 10”; and 403(a)—the labeling was also false and misleading since the article contained in each envelope sufficient hydrated potato material, in fact, to make only five $\frac{1}{2}$ cup servings and not six $\frac{1}{2}$ cup servings as represented and suggested by the package label statements “12 big servings” and “One envelope serves 6: Double recipe to serve 12.”

DISPOSITION: On 5-2-63, Gateway Flakes, Inc., Barnesville, Minn., filed a claim to the article, and an answer that denied that the article was misbranded. On 5-3-63, pursuant to stipulation, the proceedings were removed for trial to the District of North Dakota. Thereafter, pursuant to stipulation, the libel was amended to charge that the package label and envelope label were inconsistent, and the claimant withdrew its claim. On 4-27-64, a default decree of condemnation was entered and the article was donated to various charitable institutions.

29759. Pickled chili peppers. (F.D.C. No. 49601. S. No. 31-230 X.)

QUANTITY: 104 cases, each containing 48 cans, at Los Angeles, Calif.

SHIPPED: 5-21-63, from Tijuana, Mex., by Almacenes De Tijuana.

LABEL IN PART: (Can) “Embasa Pickled Serranos Chili Peppers Product of Mexico * * * Ingredients: * * * Un Producto De Empacadora Del Bajio, S.A. * * * Net Weight 8 Ounces.”

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 10 percent short weight.

LIBELED: 1-22-64, S. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the label of the article failed to bear a label containing an accurate statement of quantity of contents since label statement “Net Weight 8 Ounces” was inaccurate.

DISPOSITION: 4-20-64. Consent—claimed by Stone Brokerage Co., for export to the original shipper.

29760. Sweet pickles and dill pickles. (F.D.C. No. 49538. S. Nos. 21-931 T, 23-105 X.)

INFORMATION FILED: 1-21-64, Dist. Colo., against American Products Co., a partnership, and Morris Ginsburg, partner, Denver, Colo.

SHIPPED: Between 7-9-62 and 6-28-63, from Denver, Colo., to Salt Lake City, Utah, and Amarillo, Tex.

LABEL IN PART: (Jars) “AP Contents 12 Fl. Ozs. Sweet Pickles Packed By American Products Co., Denver, Colorado”; (drum and tin) “Straight Cut $\frac{1}{8}$ Kosher Golden Light Brand Kosher Style Dill Pickles Contents 50 [or “5”] Gallons Golden Light Coffee & Equipment Co. Amarillo · Lubbock.”

CHARGE: 403(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere by the partnership to counts involving both articles, and by Ginsburg to 1 count involving the sweet pickles.

DISPOSITION: 9-11-64. Ginsburg—\$500 fine suspended, and probation for 1 year; partnership—\$1,000 fine of which \$500 was suspended, and probation for 1 year.

NUTS AND NUT PRODUCTS*

29761. Bitter almonds. (F.D.C. No. 49673. S. Nos. 77-971 X, 77-973 X.)

QUANTITY: 378 lbs., in unlabeled bags, at New York, N.Y., in possession of A. L. Bazzini Co., Inc.

SHIPPED: 12-5-63, from Sacramento, Calif.

RESULTS OF INVESTIGATION: The article was being sold at retail without having been treated to remove the cyanide.

LIBELED: 1-3-64, S. Dist. N.Y.

CHARGE: 402(a) (1)—when shipped and while held for sale, the article contained a poisonous or deleterious substance, hydrocyanic acid, which may render it injurious to health.

DISPOSITION: 2-10-64. Default—destruction.

29762. Shelled brazil nuts. (F.D.C. No. 49560. S. No. 79-345 X.)

QUANTITY: 66 cases, each containing 24 1-lb. bags, at Youngstown, Ohio.

SHIPPED: 11-2-63, from Mobile, Ala., by Robert L. Berner Co.

LABEL IN PART: (Bag) "Holiday Brand * * * Deluxe Brazil Nuts * * * Packed by Robert L. Berner Co., Chicago, Ill."

LIBELED: 12-9-63, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained insects and rancid, moldy nuts when shipped.

DISPOSITION: 2-13-64. Default—destruction.

29763. Shelled cashews. (F.D.C. No. 49972. S. No. 1-094 A.)

QUANTITY: 41 cases, each containing 2 25-lb. cans, at Atlanta, Ga.

SHIPPED: 1-24-64, from New York, N.Y., by Joseph A. Zaloom & Co., Inc.

LABEL IN PART: (Can) "Cashew Kernels Produce of India."

LIBELED: 4-13-64, N. Dist. Ga.

CHARGE: 402(a) (3)—contained insects and insect fragments when shipped.

DISPOSITION: 5-19-64. Consent—claimed by Joseph A. Zaloom & Co., Inc., New York, N.Y. Segregated and reconditioned; 10 lbs. destroyed.

29764. Shelled cashews. (F.D.C. No. 49739. S. No. 84-210 X.)

QUANTITY: 104 cases, each containing 12 cans, at Matthews, N.C.

SHIPPED: 11-1-63, from Tipp City, Ohio, by Dayton Nut Products Co.

LABEL IN PART: (Can) "Trophy salted Cashews * * * Packed by Dayton Nut Products Co., Dayton-Tipp City Ohio * * * Net Wt. 14 Oz.-397 Grams."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 3.5 percent short weight.

LIBELED: 1-30-64, W. Dist. N.C.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 2-24-64. Consent—claimed by Trophy Co., Inc., and repacked in bags properly labeled as to weight.

29765. Shelled peanuts. (F.D.C. No. 50315. S. No. 40-789 A.)

QUANTITY: 320 124-lb. bags, at Houston, Tex., in possession of Houston Terminal Warehouse & Cold Storage Co.

*See also No. 29749.

SHIPPED: 1-9-63, from Donalsonville, Ga.

LIBELED: 7-2-64, S. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-23-64. Consent—claimed by the Bama Co., Houston, Tex. Reconditioned and segregated; 1,898 lbs. destroyed.

29766. Shelled peanuts. (F.D.C. No. 49714. S. No. 3-779 X.)

QUANTITY: 345 unlabeled 125-lb. bags at Suffolk, Va.

SHIPPED: 11-7-63, from Samson, Ala., by Brooks Milling Co.

LIBELED: 1-13-64, E. Dist. Va.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-26-64. Consent—claimed by Brooks Peanut Co., Samson, Ala., and reconditioned.

29767. Shelled peanuts. (F.D.C. No. 49551. S. No. 19-774 X.)

QUANTITY: 200 120-lb. bags at Denison, Tex.

SHIPPED: 11-5-63, from Fitzgerald, Ga., by Dixie Peanut Co.

LABEL IN PART: (Bag tag) "Pee Wee Runner Peanuts Packed By Dixie Peanut Company Fitzgerald, Georgia."

LIBELED: 12-3-63, E. Dist. Tex.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 1-17-64. Consent—claimed by Dixie Peanut Co., Fitzgerald, Ga. Segregated and reconditioned; 16 bags denatured for use as animal feed.

29768. Unshelled peanuts. (F.D.C. No. 50090. S. No. 73-143 A.)

QUANTITY: 93 50-lb. bags at Birmingham, Ala.

SHIPPED: 2-24-64, from Portales, N. Mex., by Portales Valley Mills, Inc.

LABEL IN PART: (Bag) "Pito's Peanuts * * * Portales Valley Mills, Inc. Portales, New Mexico."

LIBELED: 5-19-64, N. Dist. Ala.

CHARGE: 402(a)(3)—contained rodent excreta, rodent hairs, and rodent-gnawed peanuts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-25-64. Default—delivered to a public institution for use as animal feed.

29769. Unshelled peanuts. (F.D.C. No. 50073. S. No. 66-943 A.)

QUANTITY: 46 100-lb. bags at Sioux Falls, S. Dak., in possession of Sunshine Food Markets.

SHIPPED: 11-27-63, from Suffolk, Va.

LIBELED: 5-4-64, Dist. S. Dak.

CHARGE: 402(a)(3)—contained rodent urine and a rodent nest; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-15-64. Consent—claimed by Sunshine Food Markets. Segregated; 880 lbs. denatured for use as animal feed.

29770. Shelled Spanish peanuts. (F.D.C. No. 50540. S. No. 26-081 A.)

QUANTITY: 250 99¼-lb. bags at Chicago, Ill.

SHIPPED: 7-1-64, from Durant, Okla., by Durant Cotton Oil & Peanut Corp.

LABEL IN PART: (Tag on bag) "No. 1 Small * * * Shelled Spanish Peanuts * * * Durant Cotton Oil & Peanut Corp. Durant, Oklahoma."

LIBELED: 8-12-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-29-64. Consent—claimed by Durant Cotton Oil & Peanut Corp. Reconditioned and segregated; 1,400 lbs. destroyed.

29771. Shelled Spanish peanuts. (F.D.C. No. 50261. S. No. 61-903 A.)

QUANTITY: 24 115-lb. bags at Los Angeles, Calif.

SHIPPED: Between 1-31-62 and 7-27-64, from Comanche, Tex.

LIBELED: 7-27-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained dirty, insect-damaged, and decomposed peanuts while held for sale.

DISPOSITION: 10-8-64. Default—destruction.

29772. Shelled pecans. (F.D.C. No. 49852. S. No. 50-085 A.)

QUANTITY: 192 30-lb. ctns. at Cleveland, Ohio.

SHIPPED: 1-6-64, from Bristow, Okla., by Southwest Pecan Co.

LABEL IN PART: (Ctn.) "Shelled Pecans Medium Pieces Southwest Pecan Co., Pecan Shellers, Bristow, Oklahoma."

LIBELED: 3-27-64, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 4-21-64. Consent—claimed by Southwest Pecan Co., a corporation, Bristow, Okla., and reconditioned.

29773. Shelled pecans. (F.D.C. No. 50235. S. Nos. 33-067/8 A.)

QUANTITY: 9 30-lb. cases of medium pecan pieces and 10 30-lb. cases of small pecan pieces at Columbus, Ohio.

SHIPPED: 4-9-64, from Muskogee, Okla., by Pet Milk Co., Funsten Div.

LABEL IN PART: (Case) "Funsten Pecan Pieces, Funsten Standard Medium [or "Small"] Pecan Pieces—Pet Milk Company, Funsten, St. Louis, Mo."

LIBELED: 6-24-64, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 7-16-64. Default—destruction.

29774. Unshelled pecans and unshelled mixed nuts. (F.D.C. No. 49974. S. Nos. 102-684 A, 102-686A.)

QUANTITY: 200 50-lb. bags of pecans, and 60 unlabeled 100-lb. bags of mixed nuts, at Boise, Idaho, in possession of Idaho Food Products, Inc.

SHIPPED: Between 1-1-63 and 12-31-63, from Dallas, Tex.; Dundee, Oreg.; New York, N.Y.; and unknown places outside the State of Idaho.

RESULTS OF INVESTIGATION: The dealer had prepared and packed the mixed nuts from pecans, walnuts, brazil nuts, filberts, and almonds shipped as above.

LIBELED: 4-17-64, Dist. Idaho.

CHARGE: 402(a)(3)—the pecans contained rodent hairs and rodent-gnawed nuts, and the mixed nuts contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-14-64. Consent—claimed by Idaho Food Products, Inc., and reconditioned.

29775. Shelled pecans. (F.D.C. No. 49985. S. Nos. 25-414/15 A.)

QUANTITY: 200 30-lb. ctns. of pecan halves, and 213 30-lb. ctns. of pecan pieces, at Chicago, Ill.

SHIPPED: 2-11-64, from Andalusia, Ala., by Pet Milk Co., Funsten Div.

LABEL IN PART: (Ctn.) "Funsten * * * Medium Select Pecan Halves [or "Pieces"] * * * Pet Milk Company, Funsten Division, St. Louis, Mo."

LIBELED: 4-22-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-8-64. Consent—claimed by Pet Milk Co., Funsten Div., and reconditioned.

29776. Shelled mixed nuts. (F.D.C. No. 49626. S. No. 2-433 X.)

QUANTITY: 104 cases, each containing 24 13-oz. pkgs., at Miami, Fla.

SHIPPED: 10-29-63, from New York, N.Y., by the Graham Co., Inc.

LABEL IN PART: (Pkg.) "Daisy Selected Mixed Nuts Walnuts-Brazils-Filberts-Almonds-Pecans * * * Packed by The Graham Co., Inc. New York, N.Y."

LIBELED: 12-10-63, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rancid, moldy nuts when shipped.

DISPOSITION: 3-16-64. Default—destruction.

29777. Unshelled mixed nuts. (F.D.C. No. 49653. S. Nos. 67-425 X, 67-427 X, 67-430 X.)

QUANTITY: 449 ctns., each containing 24 1-lb. pkgs., at Baltimore, Md.

SHIPPED: Between 10-23-63 and 12-5-63, from Boston, Mass., by Eaton & Eustis Co.

LABEL IN PART: (Pkg.) "Sunniland Brand * * * Extra Fancy Mixed Nuts Walnuts-Brazils-Pecans-Almonds-Filberts * * * Packed by Eaton & Eustis Co., Boston, Mass."

LIBELED: 12-20-63, Dist. Md.

CHARGE: 402(a)(3)—contained insects, moldy, and rancid nuts, and empty shells when shipped.

DISPOSITION: 1-21-64. Consent—claimed by Eaton & Eustis Co., Boston, Mass. Segregated; 78 lbs. destroyed.

29778. Shelled walnuts. (F.D.C. No. 50043. S. No. 71-126 A.)

QUANTITY: 300 25-lb. boxes at St. Paul, Minn.

SHIPPED: 2-10-64, from Somis, Calif., by Ventura Walnut Shelling Co.

LABEL IN PART: (Box) "California Shelled Walnuts Indian Brand—Packed by Ventura Walnuts Shelling Co. Somis, Calif."

LIBELED: 4-8-64, Dist. Minn.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 5-15-64. Consent—claimed by Ventura Walnut Shelling Co., and reconditioned.

29779. Shelled walnuts. (F.D.C. No. 48723. S. No. 53-498 V.)

QUANTITY: 10 25-lb. cases at Missoula, Mont.

SHIPPED: 1-14-63, from Portland, Oreg., by Northwest Nut Growers.

LABEL IN PART: (Case) "Omega Oregon & Washington Amber Walnut Meats Halves & Pieces Packed by Northwest Nut Growers Portland, Oregon * * * State of Oregon."

LIBELED: 3-15-63, Dist. Mont.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 4-11-63. Default—destruction.

29780. Peanut butter. (F.D.C. No. 50227. S. No. 74-943 A.)

QUANTITY: 116 cases, each containing 12 1-lb. 2-oz. jars, at Birmingham, Ala.

SHIPPED: 4-13-64, from Nashville, Tenn., by United States Peanut Co.

LABEL IN PART: (Jar) "Food Centers Homogenized * * * Smooth Peanut Butter—Packed For Food Centers, Birmingham, Ala."

LIBELED: 6-10-64, N. Dist. Ala.; libel amended 6-17-64.

CHARGE: 402(a)(3)—contained grit and was gritty to the taste when shipped.

DISPOSITION: 7-15-64. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

29781. Mustard seed. (F.D.C. No. 49163. S. No. 18-693 V.)

INFORMATION FILED: 2-27-64, N. Dist. Tex., against Golden Light Coffee & Equipment Co., a corporation, Amarillo, Tex., Hugh C. Donnell, president, Thomas G. Donnell, vice president, and Grover L. Mason, plant superintendent.

ALLEGED VIOLATION: Within the period from 11-13-62 to 12-5-62, and while a quantity of mustard seed was being held for sale after shipment in interstate commerce, the defendants caused said food to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, thereby causing the food to become adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-30-64. Fine in the total amount of \$700 against the defendants.

29782. Nutmeg and black pepper. (F.D.C. No. 50005. S. Nos. 13-366/7 A.)

QUANTITY: 188 cases, each containing 24 cans of nutmeg, and 447 cases, each containing 24 cans of pepper, at Boston, Mass., in possession of D & L Slade Co., Inc.

SHIPPED: 1-24-64 and 2-18-64, from New York, N.Y., and Brooklyn, N.Y.

LABELS IN PART: (Cans) "Slade's Nutmeg 1½ Oz. Net [or "Pure Black Pepper 4 Oz. Net"] D. & L. Slade Co., Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed the articles to be approximately 5.33 percent (nutmeg) and 3.75 percent (pepper) short weight. The articles had been repacked at Boston, Mass., by the dealer from bulk nutmeg and pepper shipped as above.

LIBELED: 4-27-64, Dist. Mass.

*See also Nos. 29727, 29798.

CHARGE: 403(e) (2)—while held for sale, the articles failed to bear a label containing an accurate statement of the quantity of the contents, since the label statements (nutmeg) "1½ Oz. Net" and (pepper) "4 Oz. Net" were inaccurate.

DISPOSITION: 7-23-64. Consent—claimed by D & L Slade Co., for relabeling.

29783. Salad dressing. (F.D.C. No. 50264. S. No. 20-016 A.)

QUANTITY: 110 cases, each containing 4 1-gal. jars, at Pittsburgh, Pa.

SHIPPED: 1-7-64 and 4-20-64, from Westfield, N.Y., by Westfield Sommers Foods, Inc.

LABEL IN PART: (Jar) "Daisy Salad Dressing H. F. Behrhorst & Son, Inc., Pittsburgh, Pa."

RESULTS OF INVESTIGATION: Examination showed that the article contained a vegetable gum emulsifying ingredient not declared on the label.

LIBELED: 7-27-64, W. Dist. Pa.

CHARGE: 403(g) (2)—when shipped, the article purported to be and was represented as salad dressing, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear a statement of its optional emulsifying ingredient content [vegetable gum] as required by regulations.

DISPOSITION: 8-26-64. Default—delivered to a charitable institution.

29784. Salt. (F.D.C. No. 50128. S. Nos. 40-012/13 A, 40-015 A.)

QUANTITY: 867 100-lb. bags at Corpus Christi, Tex., in possession of Scogin Wholesale Grocery Co.

SHIPPED: 2-15-63 and 11-13-63, from Jefferson Island and Avery Island, La.

LIBELED: 5-16-64, S. Dist. Tex.

CHARGE: 402(a) (3)—contained rodent excreta pellets, rodent urine, and rodent nests; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 7-23-64. Consent—claimed by Scogin Wholesale Grocery Co. Denatured and relabeled "For Nonfood Use."

29785. Vanilla concentrate. (F.D.C. No. 49914. S. No. 7-163 A.)

QUANTITY: 1 50-gal. size, containing approximately 30 gal., at Richmond, Va.

SHIPPED: 8-2-63, from Union City, N.J., by Reynaud, Ltd.

LABEL IN PART: (Drum) "Pure Vanilla 10-Fold Concentrate-Bourbon * * * Reynaud Ltd. * * * Union City N.J."

RESULTS OF INVESTIGATION: Examination showed the article to be a dark brown liquid with a vanilla-like odor containing added vanillin and little if any true vanilla extractives.

LIBELED: On or about 3-6-64, E. Dist. Va.

CHARGE: 402(b) (1)—when shipped, the valuable constituent, vanilla extractives, had been in whole or in part omitted or abstracted from the article; 402(b) (2)—vanillin and flavorings other than true vanilla extractives had been in whole or in part substituted for the article; 402(b) (4)—vanillin and flavorings other than true vanilla extractives had been added to or mixed or packed with it, so as to make it appear better or of greater value than it was; 403(a)—the label statement "Pure Vanilla 10-Fold Concentrate" was false and misleading since it was contrary to fact; 403(i) (2)—the article was fabricated from two or more ingredients and its label failed to bear the com-

mon or usual name of each such ingredient; and 403(k)—the article contained an artificial flavoring and it failed to bear a label stating that fact.

DISPOSITION: 4-1-64. Default—destruction.

29786. **Vanilla concentrate.** (F.D.C. No. 49910. S. No. 30-906 A.)

QUANTITY: 8 1-gal. btls. at Cincinnati, Ohio.

SHIPPED: 11-13-63, from Union City, N.J., by Reynaud, Ltd.

LABEL IN PART: (Btl.) "Reynaud, Ltd. Pure Vanilla 10-Fold Concentrate TK 503 Contains: Extractive Matter of Vanilla Beans * * * For Manufacturing Use Only * * * Union City, New Jersey."

LIBELED: 3-9-64, S. Dist. Ohio.

CHARGE: 402(b)(1)—when shipped, the valuable constituent of the article, vanilla extractives, had been in whole or in part omitted or abstracted; 402(b)(2)—vanillin and flavorings other than true vanilla extractives, had been in whole or in part substituted for the article; 402(b)(4)—vanillin and flavorings other than true vanilla extractives had been added to the article or mixed or packed therewith, so as to make it appear better or of greater value than it was; 403(a)—the label statement "Pure Vanilla 10-Fold Concentrate" was false and misleading since it was contrary to fact; 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; and 403(k)—the article contained an artificial flavoring and it failed to bear a label stating that fact.

DISPOSITION: 3-23-64. Consent—delivered to a charitable institution for use as food for human consumption thereat, but not for sale or other use.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

29787. **Various vitamin preparations.** (F.D.C. No. 44376. S. Nos. 96-867/71 P.)

QUANTITY: 1 bulk can of 12,000 capsules and 11 100-capsule btls., 13 200-capsule btls., 2 100 capsule btls., and 5 200-capsule btls. of vitamins A and D; 1 bulk container of 20,000 capsules, 34 100-capsule btls., 39 200-capsule btls., and 4 500-capsule btls. of Natural B Complex; 22 ctns., 12 4-oz. btls. each, and 4 4-oz. btls. of brewers yeast; 122 100-tablet btls., 109 200-tablet btls., of Geriatric Gelly; 15 ctns., 12 50-tablet btls. each, and 15 50-tablet btls., and 1 100-tablet btl. of vitamin C at New York, N.Y., in possession of Charles Falkner, Inc., and in possession of the same firm, t/a Sunny-Health Foods.

SHIPPED: Between 4-30-57 and 1-12-60, (Natural B Complex and Geriatric Gelly) from Hoboken, N.J., by Willow Pharmacal Corp., and (other above-named articles) from Worcester, Mass., by Brewer & Co., Inc.

LABELS IN PART: (Btl.) "Falkner's 'Aydee' Formula Natural Vitamin A and D Capsules (from fish liver lipoids) In A Base of Pure Wheat Germ Oil Each Capsule provides: * * * Charles Falkner, Inc. Distr. New York 21, N.Y."; (btl.) "Falkner's Natural B Complex with Vitamin B-12 (2 mcg. Vitamin B-12 per capsule) Each capsule contains * * * Plus 2 mcg. of Vitamin B₁₂ per capsule for which Need in Human Nutrition has not yet been established. * * * Charles Falkner, Inc. Distr.—New York 21, N.Y."; (btl.) "Falkner's Super All-Natural B Concentrate (brewers yeast) Each teaspoonful contains the unknown as well as the known B-Complex Vitamins Found in 17.5 Gm.

*See also No. 29732.

or more of Brewers Yeast"; (btl.) "Falkner's Royal Geriatric Gelly An All-Natural High Potency Vitamin and Mineral With Addition of Royal Jelly 3307 Distributed by Charles Falkner, Inc." and (btl.) "Falkner's All-Natural Super Vitamin C, Bioflavonoids and Rutin * * * Each Capsule contains: Vitamin C 100 mg. (from Rose Hips) Citrus Bioflavonoids Complex (Hesperidin) 100 mg. Rutin 10 mg. (from Natural Sources) Charles Falkner, Inc. New York 21, N.Y."

ACCOMPANYING LABELING: Leaflets entitled "Falkner's Special Holiday Sale," "The Gift of Good Health," and "Falkner's Special Spring Sale," and a number of bottle labels for vitamin A and D capsules and Natural B Complex capsules.

RESULTS OF INVESTIGATION: The vitamin A and D capsules and Natural B Complex capsules in the bottles were repacked from bulk containers shipped as described above.

LIBELED: 3-25-60, S. Dist. N.Y.

CHARGE: Vitamin A and D capsules; 403(a)—while held for sale, the accompanying labeling contained the statement "with vitamin E to aid utilization of A and D," which was false and misleading since it was contrary to fact; and 403(j)—the article purported to be a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the amount of vitamin E present in the article.

Natural B Complex capsules, 403(a)—while held for sale, the label contained the false and misleading statement that the need for vitamin B₁₂ in human nutrition has not yet been established; and 403(j)—when shipped and while held for sale, the article purported to be a food for special dietary use by reason of its vitamin content and its label (bulk) failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin B₁ and vitamin B₂ supplied by the article when consumed in a specified quantity during one day, and its label (bulk and repack) failed to bear, as required by regulations, a statement of all the vitamins and the amounts of the vitamin B complex present in the article.

Brewers yeast, 403(j)—when shipped, the article purported to be a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by regulations, the statement "The need for pantothenic acid in human nutrition has not yet been established."

Geriatric Gelly, 403(a)—when shipped, the name "Royal Geriatric Gelly" was false and misleading since it represented the article to be royal jelly whereas the article consisted of numerous ingredients; and 403(j)—the article purported to be a food for special dietary use by reason of its vitamin content and its label failed to bear as required by regulations, a statement of the proportion of the minimum daily requirement for niacin supplied by the article when consumed in a specified quantity during one day.

Vitamin C tablets, 403(a)—while held for sale, the accompanying labeling contained false and misleading representations that citrus bioflavonoids in the article were biologically active; that they were the sources of essential vitamins, minerals, and amino acids; that they were most effective when combined with vitamin C; and that scientific investigations had established their importance in cellular metabolism and were essential throughout the entire life span from childhood to old age.

The libel alleged also that the vitamin A and D capsules, Natural B Complex capsules, brewers yeast, and Geriatric Gelly were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7933.

DISPOSITION: 9-15-60. Consent—claimed by Charles Falkner, Inc., and relabeled.

29788. Kebex vitamin-mineral capsules. (F.D.C. No. 49882. S. Nos. 38-242/3 A.)

QUANTITY: 11 cases containing 24 50-capsule btls. each, 19 50-capsule btls., and 6 100-capsule btls., at Raymondville, Tex.

SHIPPED: Between 6-1-63 and 7-31-63, from Philadelphia, Pa., by Nutrition Research Laboratory.

LABEL IN PART: (Btl.) "Special Kebex Formula Vitamin Mineral Capsules Each capsule supplies * * * Dosage: * * * one or two capsules daily * * * Each capsule contains * * * Folic Acid, USP 0.5 mg. * * * Nutrition Research Laboratory Philadelphia, Pa."

LIBELED: 3-11-64, S. Dist. Tex.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 4-11-64. Default—destruction.

29789. Multi-vitamin solutions. (F.D.C. No. 49243. S. Nos. 65-828 V, 66-393 V.)

QUANTITY: 1,050 15-cc. btls., and 4,230 50-cc. btls., at Parsippany-Troy Hills, N.J.

SHIPPED. Between 9-20-62 and 9-29-62, from New York, N.Y.

RESULTS OF INVESTIGATION: Analysis showed that the 15-cc. btls. contained approximately 50 percent of the declared amount of vitamin A and approximately 75 percent of the declared amount of vitamin B₁, and that the 50-cc. btls. contained less than 79 percent of the declared amount of vitamin B₁.

LIBELED: 8-30-63, Dist. N.J.

CHARGE: 402(b)(1)—while held for sale, valuable constituents, vitamin A and (15-cc. btls. only) vitamin B₁, had been in part omitted or abstracted from the articles; and 403(a)—the label statements (15-cc. btls.) "Each 0.6 cc. contains Vitamin A 5000 USP Units * * * Vitamin B₁ 2 mg." and (50-cc. btls.) "Each 0.6 cc. contains * * * Vitamin B₁ 1.0 mg." were false and misleading as applied to products containing less than the declared amounts of these vitamins.

DISPOSITION: 12-10-63. Consent—destruction.

29790. Nuclomin tablets. (F.D.C. No. 49770. S. No. 58-361 X.)

QUANTITY: 6 cases, each containing 12 100-tablet btls., at Phoenix, Ariz.

SHIPPED: 11-22-63, from St. Louis, Mo., by Miller Laboratories, Inc.

LABEL IN PART: (Btl.) "69 100 Tablets Nuclomin Amino Acid Complexed Trace Minerals with Multi Vitamins * * * Dosage * * * two (2) to four (4) tablets per day with meals * * * Each two tablets contain: * * * Folic acid 0.2 mg. * * * Manufactured for and Distributed by Miller Laboratories, Inc. * * * St. Louis 3, Mo. for the Miller Pharmacal Co. West Chicago, Ill."

LIBELED: 2-3-64, Dist. Ariz.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 4-10-64. Default—destruction.

29791. Rawleigh beef and sheep premix, and Rawleigh poultry premix. (F.D.C. No. 49099. S. Nos. 11-850/1 V.)

QUANTITY: 2 cases, each containing 4 10-lb. bags of beef and sheep premix, and 8 cases, each containing 4 10-lb bags of poultry premix, at Menands, N.Y.

SHIPPED: Prior to 4-5-63, from Freeport, Ill., by W. T. Rawleigh Co.

LABEL IN PART: (Tags) "Rawleigh Beef and Sheep Premix * * * Active Drug Ingredients Tetra Alkylammonium Stearate (from Dynafac) 2% Ethylenediamine Dihyriodide* .65% * * * Manufactured by The W. T. Rawleigh Company Freeport, Illinois"; "Rawleigh Poultry Premix Medicated Active Drug Ingredients Arsanilic Acid 1.98% Growth Stimulant For Poultry For use in poultry feeds in amounts of not more than 10 pounds or less than 5 pounds per ton of complete feed. Analysis Per Pound of Rawleigh Poultry Premix Medicated Procaine Penicillin Not less than 0.5 gms. Equivalent to 0.3 gm. of Crystalline Penicillin G (Master Standard) * * * Manufactured for the W. T. Rawleigh Company Freeport, Illinois."

ACCOMPANYING LABELING: Feeding chart entitled "Poultry Premix Ration Chart Direction Card No. 14."

RESULTS OF INVESTIGATION: Investigations showed that the label for the poultry premix directed, as one use of the article, that it be used in a complete feed for the intended purpose of growth stimulation at a level of procaine penicillin which was lower than that set forth in the food additive regulations.

LIBELED: 7-10-63, N. Dist. N.Y.

CHARGE: 402(a) (2) (C)—when shipped and while held for sale, the beef and sheep premix contained the food additives, tetra alkylammonium stearate and ethylenediamine dihyriodide, which in combination were unsafe within the meaning of 409; and the poultry premix contained arsanilic acid and procaine penicillin which were unsafe within the meaning of 409 under the directions for use as a concentrate for continuous feeding (arsanilic acid) and as a complete feed (procaine penicillin), since such food additives and their use and intended use were not in conformity with a regulation or exemption.

The articles were alleged also to be violative of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7887.

DISPOSITION: 9-9-63. Default—destruction.

29792. Super Bee vitamin-mineral tablets. (F.D.C. No. 50113. S. Nos. 44-723 A, 43-842 A.)

QUANTITY: 69 90-tablet btls., and 60 45-tablet btls., at Denver, Colo., in possession of Interstate Distributors, Inc.

SHIPPED: In March or April 1960, from Los Angeles, Calif., by Aldan Distributors.

LABEL IN PART: (Btl.) "No. 90 Super Bee Vitamins-Minerals 10,000 Mcg. 100% Pure Royal Jelly A Food Supplement * * * Aldan Distributors, Inc."

LIBELED: 5-8-64, Dist. Colo.

CHARGE: 403(a)—when shipped and while held for sale, the labeling of the article contained false and misleading representations that royal jelly was a substance of significance for dietary supplementation or dietary use; 403(a)—the statement "100% Pure Royal Jelly" in the setting in which it appeared in the labeling represented and suggested that the article was 100 percent

royal jelly which was false and misleading; and 403(a)—the prominence given "10,000 Mcg." was misleading since it represented and suggested that the article contained materially more than the figure's equivalence, 10 mg., which is the common term or unit normally used.

DISPOSITION: 6-18-64. Default—destruction.

29793. Vitamin capsules (3 seizure actions). (F.D.C. Nos. 49762, 49764/5. S. Nos. 13-665 A; 13-667 A; 13-668 A.)

QUANTITY: 4 100-capsule btls. of prenatal vitamin capsules, 6 100-capsule btls. of yellow gelatin vitamin capsules, and 62 100-capsule btls. of high potency vitamin capsules, at Fall River, Mass.

SHIPPED: Prior to 1959, from New York, N.Y., and Providence, R.I.

LIBELED: 2-11-64, Dist. Mass.

CHARGE: 402(a) (2) (C)—while held for sale, the articles contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 6-29-64; 10-5-64; 10-5-64. Default—destruction.

29794. Vitamin drops and capsules. (F.D.C. No. 49766. S. Nos. 13-669/70 A.)

QUANTITY: 11 30-cc. btls., and 7 60-cc. btls., of vitamin drops, and 8 250-capsule btls., of vitamin capsules, at Fall River, Mass.

SHIPPED: Prior to 1959, from Kalamazoo, Mich.

LABEL IN PART: "Each cc. contains: Folic Acid 1 mg. * * * Dosage Infants and Children 1 to 2 cc. daily * * * Adults 1 to 5 cc. daily," and "Each capsule contains: Folic Acid 0.5 mg. * * * Usual Adult Dosage—1 to 2 capsules daily."

LIBELED: 2-11-64, Dist. Mass.

CHARGE: 402(a) (2) (C)—while held for sale, the article contained a food additive, folic acid, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 6-30-64. Default—destruction.

29795. Vitamin and mineral food supplement capsules. (F.D.C. No. 49665. S. Nos. 39-501 X, 39-718/19 X.)

QUANTITY: 212 cases, each containing 12 boxes of 12 18-capsule pkgs., 25 cases, each containing 72 18-capsule boxes, and 90 cases, each containing 12 boxes of 12 21-capsule pkgs., at Newark, N.J.

SHIPPED: Between 8-9-60 and 11-1-60, from Detroit, Mich.

RESULTS OF INVESTIGATION: Examination showed that the articles contained between 67 percent and 75 percent of the declared amount of vitamin B₁ and between 70 percent and 78 percent of the declared amount of vitamin C.

LIBELED: On or about 1-16-64, Dist. N.J.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamin B₁ and vitamin C had been in part omitted or abstracted from the articles; and 403(a) the label statements "Each * * * Capsule Contains: * * * Vitamin B-1 * * * 3 mg. [or "2 mg."] * * * Vitamin C * * * 50 mg." were false and misleading.

DISPOSITION: 2-13-64. Default—destruction.

29796. Vitamin and mineral food supplement tablets. (F.D.C. No. 49802. S. Nos. 62-001/2 X.)

QUANTITY: 6 cases, each containing 24 ctns., each ctn. containing 728 mineral tablets and 364 vitamin tablets, at Omaha, Nebr.

SHIPPED: Prior to 2-28-63, from Beverly Hills, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained between approximately 70 percent to 78 percent of the declared amount of vitamin B₁₂.

LIBELED: 2-20-64, Dist. Nebr.

CHARGE: 402(b) (1)—while held for sale, the valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article, and 403(a)—the label statement "2 Vitamin Tablets and 4 Mineral Tablets Daily Will Supply:—Vitamin B-12 Activity (Cobalamin) 5 Mcg." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 4-9-64. Default—destruction.

MISCELLANEOUS FOODS

29797. Plain gelatin. (F.D.C. No. 50003. S. No. 12-958 A.)

QUANTITY: 35 ctns., each containing 12 pkgs. of 16 envelopes each, at Portland, Maine.

SHIPPED: 3-27-64 and 3-28-64, from Cambridge, Mass., by Plymouth Rock Gelatine Co.

LABEL IN PART: (Pkg.) "Plymouth Rock * * * Plain Gelatine ¼ Lb. Net Wt. * * * Packed by Plymouth Rock Gelatine Co., Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-27-64, Dist. Maine.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-16-64. Default—delivered to a charitable institution.

29798. Dough whitener, salt, and bread. (F.D.C. No. 49545. S. Nos. 4-874 X, 4-876/7 X.)

INFORMATION FILED: 6-18-64, Dist. Columbia, against Olympia Bakery, Inc., Washington, D.C., and Michael Pappas, vice president.

ALLEGED VIOLATIONS: Between 4-3-63 and 6-18-63, and while quantities of dough whitener and salt were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building which was accessible to rodents and to be exposed to contamination by rodents thereby causing the articles to become adulterated.

On 6-19-63, the defendants shipped in interstate commerce within the District of Columbia a quantity of adulterated bread.

CHARGE: 402(a) (3)—contained rodent hairs and rodent excreta pellets; and 402(a) (4)—held or prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-24-64. Corporation—\$300 fine; Pappas—\$100 fine.

29799. Corn husks. (F.D.C. No. 50273. S. No. 96-365 A.)

QUANTITY: 16 cases, each containing 24 11-oz. bags, at Salinas, Calif.

SHIPPED: 3-9-64, from Mexico, by Select Corn Husk Co.

LABEL IN PART: (Bag) "Corn Husks * * * For Tamales * * * Packed by California Corn Husk Co. * * * Norwalk Calif."

LIBELED: 8-5-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect parts, insect excreta, and insect-damaged corn husks when shipped.

DISPOSITION: 10-6-64. Default—destruction.

29800. Canned Kasha soup. (F.D.C. No. 48577A. S. No. 39-588 V.)

INFORMATION FILED: 9-26-63, Dist. Del., against Gioia Specialty Foods, Inc., Odessa, Del.

SHIPPED: 9-10-62, from Odessa, Del., to Brooklyn, N.Y.

LABEL IN PART: (Can) "Meal Mart Kosher Condensed Kasha Soup Distributed By Meal Mart, Inc., Brooklyn, N.Y."

CHARGE: 402(a)(3)—contained insect fragments and insect larvae; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-29-64. \$500 fine.

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PRODUCTS			
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sweet	29756	Confectionery	29727
Beans, Great Northern, dried	29750	Corn husks	29799
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kidney, dried	29749	Currants	29745
pinto, dried	29750	Dairy products	29733-29738
Brazil nuts, shelled	29762	Date(s)	29747
Bread	29798	pitted	29746
dough, frozen	29701	products	29747
Breading mix	¹ 29713	Decorettes	29727
Brewers yeast	29787	Dextra Sugar	³ 29728
Butter	29733-29736	Dough, bread, frozen	29701
peanut	29780	whitener	29798
Cake flour	29710	Feed(s) and grains	29739-29741
Candy. See Confectionery.		medicated	29739, 29740
Cashews, shelled	29763, 29764	Flavors. See Spices, flavors, and	
Cereals and cereal		seasoning materials.	
products	29701-29726	Flour	29705-29710, 29714
Cheese	² 29737, 29738	cake	29710
Cherries, canned	29744	self-rising	29707
glaced	29742		
maraschino	29742		

¹ (29713) Prosecution contested. Contains motion to dismiss, order of the district court, and opinion of the U.S. Supreme court.

² (29737) Injunction issued.

³ (29728) Seizure contested. Contains opinion of the district court and of the appellate court.

	N.J. No.		N.J. No.
Food additive violations-----	29738,	Spanish, shelled-----	29770, 29771
29788, 29790, 29794		unshelled -----	29749, 29768, 29769
supplement capsules-----	29795	Pecans, shelled-----	29772, 29773, 29775
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Fruits and vegetables-----	29742-29760	Pepper(s), banana, sweet-----	29756
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ucts -----	29749-29760	chili, pickled-----	29759
Gelatin, plain-----	29797	green, sliced-----	29754
Geriatric Gelly-----	29787	wax, sweet-----	29755
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Great Northern beans, dried----	29750	Pinto beans, dried-----	20750
Gumbo file-----	29727	Pizza pie, frozen-----	29702
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Kasha soup, canned-----	29800	Pork skins, fried-----	29747
Kebex vitamin-mineral		Potato flakes, dehydrated-----	⁴ 29758
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Kidney beans, dried-----	29749	Rawleigh beef premix-----	29791
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29712		Rice -----	29707, ¹ 29713-29716, 29749
Malt-flavored sirups-----	29731	Salad dressing-----	29783
Marshmallows -----	29714	Salt -----	29784, 29798
Medicated feed-----	29739, 29740	Sauerkraut -----	29757
Millet seed-----	29741	Sausage, smoked-----	29747
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Noodles. <i>See</i> Macaroni and		materials -----	29781-29786
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Papaya, sliced, canned-----	29732	ucts of special dietary signif-	
Peaches, canned-----	29743	icance -----	29787-29796
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shelled -----	29765-29767	Wax peppers, sweet-----	29755
		Wheat -----	29717-29726

¹ (29713) Prosecution contested. Contains motion to dismiss, order of the district court, and opinion of the U.S. Supreme Court.

³ (29728) Seizure contested. Contains opinion of the district court and of the appellate court.

⁴ (29758) Seizure contested.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & G Coop. Creamery :		Dairy Maid Products Coopera-	
butter -----	29735	tive :	
Aldan Distributors :		butter -----	29735
Super Bee vitamin-mineral tab-		Dayton Nut Products Co. :	
lets -----	29792	shelled cashews-----	29764
Allen Canning Co. :		Desert Sun Co. :	
canned green beans-----	29751	raspberry laces, licorice twist,	
Almacenes De Tijuana :		decorettes, and gumbo file--	29727
pickled chili peppers-----	29759	Desert Sun Dried Fruit Co. :	
American Products Co. :		raspberry laces, licorice twist,	
sweet pickles and dill pickles--	29760	decorettes, and gumbo file--	29727
Associated Food Stores, Inc. :		Dextra Corp. :	
dried kidney beans, rice, un-		Dextra Sugar-----	³ 29728
shelled peanuts, and popcorn		Dickinson, E. F. S. :	
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Associated Grocers of Colorado,		Dickinson, S. J. :	
Inc. :		medicated feed-----	29739
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Bazzini, A. L., Co., Inc. :		shelled peanuts-----	29767
bitter almonds-----	29761	Donnell, H. C. :	
Behrhorst, H. F., & Son, Inc. :		mustard seed-----	29781
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Berkshire Bakers, Inc. :		mustard seed-----	29781
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Berkshire Foods, Inc. :		rice, flour, and marshmallows--	29714
butter -----	29736	Durant Cotton Oil & Peanut	
Berner, Robert L., Co. :		Corp. :	
shelled brazil nuts-----	29762	shelled Spanish peanuts-----	29770
Brewer & Co., Inc. :		Eaton & Eustis Co. :	
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Brooks Milling Co. :		Edgar's Warehouse, Inc. :	
shelled peanuts-----	29766	rice -----	29715
Broyles, Glen. :		El Molino Mills :	
sorghum sirup-----	29730	millet seed-----	29741
Bruce's Foods Co. :		Falkner, Charles, Inc. :	
sweet wax peppers-----	29755	various vitamin preparations--	29787
Burwell Butter Factory :		Farmers Cooperative Elevator	
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California Corn Husk Co. :		wheat -----	29718, 29726
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Cobb, B. E. :		wheat -----	29725
sorghum sirup-----	29729	Farmers Union Cooperative Asso-	
Corbett Canning Co., Inc. :		ciation :	
canned peaches-----	29743	wheat -----	29724
Crown Foods, Inc. :		Fayetteville Milling Co. :	
sweet banana peppers and hot		flour -----	29705
banana peppers-----	29756	Fishburn, F. S. :	
		rice, flour, and marshmallows--	29714

³ (29728) Seizure contested. Contains opinion of the district court and of the appellate court.

	N.J. No.		N.J. No.
Food Centers :		Idaho Food Products, Inc. :	
peanut butter-----	29780	unshelled pecans and unshelled	
Fox De Luxe Foods, Inc. :		mixed nuts-----	29774
frozen pizza pie-----	29702	Interstate Distributors, Inc. :	
Frank's Transfer & Storage :		Super Bee vitamin-mineral tab-	
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Friendship Milling Co. <i>See Rus-</i>		Kennedy, J. B. :	
sell, W. A.		rice, flour, and marshmallows--	29714
Funsten Div. <i>See Pet Milk Co.</i>		Key Milling Co., Inc. :	
Gateway Farms, Inc. :		medicated feed-----	29740
dehydrated potato flakes-----	⁴ 29758	Knipschild, B. F., & Bros. :	
Gateway Flakes, Inc. :		wheat -----	29271
dehydrated potato flakes-----	⁴ 29758	Kraft Foods :	
Georgia Feed & Grocery Co. :		cheese -----	29738
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Great Northern beans-----	29750	dried kidney beans, rice, un-	
Ginsburg, Morris :		shelled peanuts, and popcorn	
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Gioia Specialty Foods, Inc. :		Luso-American Macaroni Manu-	
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Golden Light Coffee & Equipment		egg noodles-----	29712
Co. :		McGrath, H. J., Co. :	
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Gourmet's Delight :		cornmeal -----	29704
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Graham Co., Inc. :		America :	
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Grain Products Corp. :		Mason, G. L. :	
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Hartley Creamery Co. :		Meal Mart, Inc. :	
butter -----	29733	canned Kasha soup-----	29800
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Hi-Jolly of Arizona, Inc. :		Miller Pharmacal Co. :	
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Hi-Jolly Date Gardens :		wheat -----	29717
dates, date products, smoked		New York, New Haven & Hart-	
sausage, and fried pork		ford Railroad Co. :	
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Home Grain Co. :		Nielsen, A. M. :	
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& Cold Storage Co. :		sauerkraut -----	29757
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		shelled walnuts-----	29779

² (29737) Injunction issued.⁴ (29758) Seizure contested.

	N.J. No.		N.J. No.
Nutrition Research Laboratory:		Schreiber, L. D., & Co., Inc.:	
Kebex vitamin-mineral capsules -----	29788	butter -----	29734
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Plymouth Rock Gelatine Co.:		sliced green peppers -----	29754
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Portales Valley Mills, Inc.:		spaghetti, macaroni, and noodles -----	29711
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Rawleigh beef and sheep premix and Rawleigh poultry premix -----	29791	unshelled peanuts -----	29769
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		Wiesenfeld Warehouse Co.:	
		rice, hamburger mix, and breeding mix ----- ¹	29713
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		various vitamin preparations --	29787
		Wolf Flour Cartage Co.:	
		flour -----	29709
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		shelled cashews -----	29763
		Zenith-Godley Co.:	
		butter -----	29733

¹ (29713) Prosecution contested. Contains motion to dismiss, order of the district court, and opinion of the U.S. Supreme Court.

² (29737) Injunction issued.

³ (29728) Seizure contested. Contains opinion of the district court and of the appellate court.

U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

29801-29900

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranding within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; and (3) injunction proceedings involving the entry of a temporary restraining order and a consent decree of permanent injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., May 25, 1965.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 29801-29900

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 402(b) (3), damage or inferiority had been concealed in some manner; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be or was represented as a food for which a definition and a standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard and (2) its label failed to bear as required by regulations, the common name of certain optional ingredients present in such food; Section 403(h) (1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS**29801. Beer. (Inj. No. 476.)**

COMPLAINT FOR INJUNCTION FILED: 8-29-63, S. Dist. Calif., against Maier Brewing Co., a corporation, Los Angeles, Calif., and Walter Trieselmann, brewmaster.

CHARGE: The complaint alleged that the defendant, the Maier Brewing Co., was a California corporation, that it operated a brewery in Los Angeles, Calif., that it was engaged in the business of manufacturing, packing, and distributing beer, that it shipped some of this beer in interstate commerce, that the defendant, Walter Trieselmann, was employed by the Maier Brewing Co., as brewmaster at its Los Angeles brewery.

The complaint alleged that from time to time the defendants operated the brewery under insanitary conditions by reason of the presence of insect infestation in the plant and equipment, that such insanitary conditions were observed in July and December of 1960, that beer produced under such conditions was adulterated within the meaning of 402(a)(4) and that the interstate shipment of such beer was in violation of the law.

DISPOSITION: On 9-16-63, a consent decree of permanent injunction was filed which permanently enjoined and restrained the defendants and all other persons in active concert or participation with them from directly or indirectly causing to be introduced or delivered for introduction into interstate commerce, any beer which was adulterated within the meaning of 402(a)(4) in that it had been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth. The defendants were further prohibited from taking out of context any provision in the complaint for injunction or in the consent decree of injunction in their sales, advertising, or other promotional activities.

29802. Apple juice. (F.D.C. No. 50265. S. No. 97-946 A.)

QUANTITY: 43 cases, each containing 4 1-gal. jugs, and 27 1-gal. jugs, at San Francisco, Calif.

SHIPPED: 1-27-64, from Tulsa, Okla.

RESULTS OF INVESTIGATION: Examination showed that the article contained mold and was undergoing progressive decomposition.

LIBELED: 7-28-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained mold while held for sale.

DISPOSITION: 10-6-64. Default—destruction.

29803. Fruit-flavored drinks. (F.D.C. No. 49991. S. Nos. 43-263 A, 43-265 A, 43-267/8 A, 43-285 A.)

QUANTITY: 304 cases, containing 12 cans of pineapple-grapefruit drink; 49 cases, each containing 12 cans of punch; 115 cases, each containing 12 cans of orange drink; 84 cases, each containing 12 cans of pineapple-orange drink; and 35 cases, each containing 12 cans of pineapple-grapefruit drink; at Salt Lake City, Utah.

SHIPPED: Between 2-11-64 and 4-1-64, from Anaheim, Calif., by Mutual Citrus Products Co.

LABEL IN PART: (Can) "MCP * * * Packed by Mutual Citrus Products Co., Anaheim, Calif. Net Contents One Quart 14 fl. oz."

RESULTS OF INVESTIGATION: Examination showed that the pineapple-grapefruit drink was between 2.67 percent and 2.30 percent short volume; punch was 2.04 percent short volume; orange drink was 2.20 percent short volume; pineapple-orange drink was 2.96 percent short volume; and pineapple-grapefruit drink was 2.70 percent short volume.

LIBELED: 4-20-64, Dist. Utah.

CHARGE: 403(e)(2)—when shipped, the articles failed to bear a label containing an accurate statement of the quantity of contents, since the label statement "Net Contents One Quart 14 fl. oz." was inaccurate.

DISPOSITION: 6-26-64. Consent—claimed by Mutual Citrus Products Co., for relabeling and/or repacking.

29804. Green coffee. (F.D.C. No. 50158. S. Nos. 6-213/14 A.)

QUANTITY: 650 132-lb. bags, at Norfolk, Va., in possession of Lambert's Point Docks, Inc.

SHIPPED: 9-18-63 and 12-12-63, from Santos, Brazil.

LIBELED: 5-27-64, E. Dist. Va.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-8-64. Consent—claimed by J. Aron & Co., Inc., New Orleans, La. Segregated; 442 lbs. destroyed.

29805. Tea. (F.D.C. No. 50332. S. No. 82-613 A.)

QUANTITY: 16 cases, each containing 24 25-unit ctns., at Secaucus, N.J.

SHIPPED: 4-17-64, from Bristol, Pa., by National Tea Packing Co.

LABEL IN PART: (Ctn.) "Ming Orange Pekoe Tea 25 Tea Bags * * * Net Weight 2 Oz. * * * The Ming Tea Company Division of Heublein, Inc., Hartford, Connecticut."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 5.5 percent short weight.

LIBELED: 7-14-64, Dist. N.J.

CHARGE: 403(a)—when shipped, the label statement "The Ming Tea Company" suggested and implied that the Ming Tea Company was the manufacturer of the article, which name was misleading, since that firm was the distributor of the article and not the manufacturer; and 403(e)(2)—the article failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "Net Weight 2 Oz." was inaccurate.

DISPOSITION: 8-27-64. Default—destruction.

29806. Tokay wine. (F.D.C. No. 50698. S. No. 45-956 A.)

QUANTITY: 2,601 gals. in an unlabeled vat, at Gallup, N. Mex., in possession of Gallup Sales Co.

SHIPPED: 10-6-64, from Fresno, Calif.

LIBELED: On or about 11-6-64, Dist. N. Mex.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-14-64. Default—destruction.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS**

29807. Bread sticks. (F.D.C. No. 50347. S. Nos. 27-183/84 X, 27-186 X, 32-328 X.)

INFORMATION FILED: 10-8-64, Dist. Colo., against Newcomb Baking Co., a corporation, Denver, Colo., and John Camping, plant superintendent and acting general manager.

SHIPPED: 10-8-63 and 10-11-63, from Denver, Colo., to Phoenix, Ariz., and Des Moines, Iowa.

LABEL IN PART: (Bag) "Newcomb's Corn [or "Garlic" or "Cheese"] Sticks
NEWCOMB'S BAKERY DENVER, COLORADO."

CHARGE: 402(a)(3)—contained large insect body parts and insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-27-64. Corporation—\$4,000 fine, of which \$3,500 was suspended, and probation for 2 years; Camping—sentence suspended, and probation for 1 year.

29808. Various bakery products. (F.D.C. No. 49697. S. Nos. 52-510 V, 52-512/13 V, 51-882 X, 51-887 X, 51-890 X.)

INFORMATION FILED: 7-7-64, Dist. Oreg., against Hudson House, Inc., t/a Luxury Bread Bakery, Portland, Oreg., and Frank J. Bastasch, fifth vice president and manager of the Luxury Bread Bakery plant.

SHIPPED: Between 1-31-63 and 8-15-63, from Portland, Oreg., to Hazel Dell, Wash.

LABELS IN PART: (Pkgs.) "Sweetheart * * * Buns [or "Butter and French Rolls"] Luxury Bread Bakery, Portland, Oregon"; "Luxury honey bee cinnamon pull [or "coconut lemon pull," or "apple rolls"] * * * Luxury Bread Bakery Portland, Oregon."

CHARGE: 402(a)(3)—contained insects, insect fragments, rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere by the corporation to 6 counts; by the individual to 2 counts.

DISPOSITION: 11-4-64. Corporation—\$2,400 fine; individual—\$700 fine.

29809. Frozen bread dough. (F.D.C. No. 50520. S. Nos. 52-298/300 A.)

QUANTITY: 320 cases, each containing 15 2-lb. bags, and 45 cases, each containing 10 3-lb. bags, at Detroit, Mich.

SHIPPED: 1-8-64 and 1-11-64, from Denver, Colo.

RESULTS OF INVESTIGATION: Examination showed that the loaves when baked according to directions of the dealer did not rise properly and the resulting baked product was heavy, doughy, and unpalatable.

LIBELED: 9-15-64, E. Dist. Mich.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, the leavening agent, had been in whole or in part omitted or abstracted from the article; 402(b)(3)—damage and inferiority had been concealed, since the article would not rise to produce ordinary bread when used according to directions; and 403(a)—the label statement, including the name "Frozen Dough For Home Baked

Bread" which represented and suggested that the article, when used according to directions would produce ordinary bread, was false and misleading as applied to a product from which the leavening agent had been in whole or in part abstracted or omitted from the article, and which would not produce ordinary bread when used according to directions.

DISPOSITION: 11-5-64. Default—destruction.

29810. Frozen bread dough. (F.D.C. No. 50591. S. Nos. 3-321/4 A.)

QUANTITY: 376 cases, each containing 15 2-lb. bags, and 199 cases, each containing 10 3-lb. bags, at Greenville, S.C.

SHIPPED: 2-29-64 and 3-14-64, from Denver, Colo.

RESULTS OF INVESTIGATION: Investigation showed that the loaves, when baked according to directions of the dealer did not bake properly and the resulting baked product was heavy, doughy, and unpalatable; and that this frozen dough had been shipped approximately 6 months prior to seizure. The shipper stated that after lengthy storage the dough will not rise properly due to inactivation of the leavening agent.

LIBELED: 10-2-64, W. Dist. S.C.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, the leavening agent, had been in whole or in part omitted or abstracted from the article; 402(b)(3)—damage and inferiority had been concealed, since the article would not rise to produce ordinary bread when used according to directions; and 403(a)—the label statement, including the name "Frozen Dough For Home Baked Bread" which represented and suggested that the article, when used according to directions would produce ordinary bread, was false and misleading as applied to a product from which the leavening agent had been in whole or in part abstracted or omitted from the article, and which would not produce ordinary bread when used according to directions.

DISPOSITION: 11-10-64. Default—destruction.

FLOUR

29811. Flour. (F.D.C. No. 50382. S. Nos. 22-138/40 X, 43-807 A, 43-809 A.)

INFORMATION FILED: 9-22-64, Dist. N. Mex., against Waples-Platter Co., a corporation, Roswell, N. Mex., James D. Sweeney, executive vice president, and Carl E. Tatum, warehouse manager.

ALLEGED VIOLATION: Between 5-20-63 and 1-27-64, while a number of bags of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to and infested with birds and to be exposed to contamination by birds, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained bird excreta and uric acid from bird excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty by Waples-Platter Co., to 5 counts; by Sweeney and Tatum each to 2 counts.

DISPOSITION: 11-13-64. Corporation—\$200 fine; each individual—\$200 fine.

29812. Flour and cake flour. (F.D.C. No. 49417. S. Nos. 2-217/18 X.)

QUANTITY: 98 100-lb. bags at Columbus, Ga.

SHIPPED: 7-5-63, from St. Louis, Mo.

LIBELED: 10-16-63, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-20-63. Default—destruction.

29813. Flour. (F.D.C. No. 49959. S. No. 62-005 A.)

QUANTITY: 60 100-lb. bags, at Phoenix, Ariz., in possession of Alfred M. Lewis, Inc.

SHIPPED: 1-15-64 and 1-31-64, from Amarillo, Tex.

LIBELED: 4-7-64, Dist. Ariz.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-6-64. Consent—claimed by Alfred M. Lewis, Inc., Phoenix, Ariz. Segregated; 5,500 lbs. denatured.

29814. Flour and nonfat dry milk. (F.D.C. No. 50303. S. Nos. 31-449 A, 31-451 A, 31-454/5 A.)

QUANTITY: 61 bales, each containing 10 5-lb. bags of flour; 65 bales, each containing 5 10-lb. bags of flour; and 10 cases, each containing 12 2-lb. 12 $\frac{7}{8}$ -oz. boxes of nonfat dry milk, at West Liberty, Ky., in possession of May Grocery Co.

SHIPPED: Between 2-11-63 and 2-10-64, from Salina, Kans., and Charleston, W. Va.

LIBELED: 7-16-64, E. Dist. Ky.

CHARGE: 402(a)(3)—the flour contained rodent gnawings, rodent hairs, and rodent pellets, the nonfat dry milk contained insects and insect fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-4-64. Default—the nonfat dry milk was destroyed and the flour delivered to a charitable institution for use as animal feed.

29815. Flour. (F.D.C. No. 50496. S. Nos. 68-684/5 A.)

QUANTITY: 139 50-lb. bags at Turtle Lake, Wis., in possession of Turtle Lake Cooperative Creamery Association, Inc.

SHIPPED: 4-28-64 and 6-2-64, from Minneapolis, Minn.

LIBELED: 8-10-64, W. Dist. Wis.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-19-64. Consent—claimed by Turtle Lake Cooperative Creamery Association, Inc., for conversion into animal feed.

29816. Flour, dried black-eyed peas, vermicelli, dried pinto beans, pancake mix, and cake mix. (F.D.C. No. 50597. S. Nos. 916/20 A, 927/33 A.)

QUANTITY: 18 bales, each containing 2 25-lb. bags of flour, 15 bales, each containing 24 2-lb. bags of flour, 19 bales, each containing 12 2-lb. bags of flour; 7 bales, each containing 6 4-lb. 2-oz. bags of black-eyed peas; 3 cases, each containing 24 8-oz. pkgs. of vermicelli; 28 25-lb. bags and 31 50-lb. bags of flour; 1 100-lb. bag of pinto beans; 23 bales, each containing 10 5-lb. bags of flour; 7 cases, each containing 24 1-lb. pkgs. of pancake mix; and 2 cases, each containing 12 1-lb. 5 $\frac{1}{2}$ -oz. pkgs. of cake mix, at Thomson, Ga., in possession of Thomson Wholesale Grocery Co., Inc.

SHIPPED: Between 9-20-63 and 6-25-64, from Louisville, Ky.; Johnson City, Tenn.; Minneapolis, Minn.; Indianapolis, Ind.; Charlotte, N.C.; Shawnee, Okla.; Turlock, Calif.; and Chattanooga, Tenn.

LIBELED: 9-29-64, S. Dist. Ga.

CHARGE: 402(a) (3)—contained insects and insect larvae; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-26-64. Consent—claimed by Thomson Wholesale Grocery Co., Inc., for denaturing and converting into animal feed.

29817. Flour and oats. (F.D.C. No. 50581. S. Nos. 33-370 A, 33-372/3 A.)

QUANTITY: 15 bales, each containing 10 5-lb. bags, and 75 bales, each containing 5 10-lb. bags of flour; and 28 cases, each containing 12 2-lb. 10-oz. pkgs. of oats, at Middlesboro, Ky., in possession of Tri-State Wholesale Co.

SHIPPED: 9-27-63 and 4-2-64, from Salina, Kans., and Peoria, Ill.

LIBELED: 9-22-64, E. Dist. Ky.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-9-64. Default—delivered to a charitable institution for use as animal feed.

29818. Flour. (F.D.C. No. 50676. S. No. 64-773 A.)

QUANTITY: 17 100-lb. bags, at Phoenix, Ariz., in possession of Tip-Top Bakery.

SHIPPED: On unknown dates, from Minneapolis, Minn.; Ogden, Utah; Los Angeles, Calif.; and Tempe, Ariz.

LIBELED: 10-23-64, Dist. Ariz.

CHARGE: 402(a) (3)—contained rodent urine and insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-9-64. Default—destruction.

29819. Flour and oats. (F.D.C. No. 50683. S. Nos. 3-809/11 A.)

QUANTITY: 10 100-lb. bags, and 176 25-lb. bags of flour; and 5 cases, each containing 12 2-lb. 10-oz. pkgs. of oats, at Gainesville, Ga., in possession of Carter Grocery Co.

SHIPPED: Between 1-29-64 and 6-18-64, from Chattanooga, Tenn., and White-water, Kans.

LIBELED: On or about 10-25-64, N. Dist. Ga.

CHARGE: 402(a) (3)—contained insects and (25-lb. bag lot) rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-12-64. Default—ordered destroyed or delivered to a charitable institution for use as animal feed.

29820. Flour mixes. (F.D.C. No. 50463. S. Nos. 22-948/9 X.)

INFORMATION FILED: 9-30-64, Dist. Utah, against Richard M. Cornwall, t/a Cornwall Warehouse Co., and J. Leroy Blain, superintendent of the warehouse.

ALLEGED VIOLATIONS: Between 2-5-63 and 10-1-63, while a number of 100-lb. bags of flour mixes were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with insects and to be exposed to contamination, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty by Cornwall to 2 counts; by Blain to 1 count.

DISPOSITION: 11-25-64. Cornwall—\$200 fine; Blain—\$100 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

29821. Wheat and barley. (Inj. No. 446.)

COMPLAINT FOR INJUNCTION FILED: 12-13-62, Dist. N. Dak., against Englevale Farmers Elevator Co., a corporation, Englevale, N. Dak., Neil B. Coit, president, and Robert Scott, elevator manager.

CHARGE: The complaint alleged that the defendants were engaged in operating at Englevale, N. Dak., a grain elevator for the storage and distribution of wheat and barley for human consumption, and were introducing into interstate commerce such foods which were adulterated. The grain elevator facility included sheathing that contained 11 bins located approximately 100 yards west of the defendants' main elevator house and office, and that was designated House No. 2 and a wooden double-walled grain-storage structure that contained 4 flat-bottomed bins and a warehouse area, that was located east of and adjacent to House No. 2 elevator and that was designated as the Annex for the storage and distribution of wheat and barley for human consumption.

The complaint alleged further that the foods consisted in part of a filthy substance by reason of the presence of rodent excreta in the foods; and that the foods had been and were then being held at the defendants' grain elevator facility at Englevale, N. Dak., under insanitary conditions whereby they might have become contaminated with filth thereby rendering the foods adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged also that the insanitary conditions of the defendants' grain elevator facility at Englevale, N. Dak., resulted from and consisted of the presence in the House No. 2 elevator and the Annex structure of the following: approximately 75 rodent pellets per pint of the surface grain at the corners of the bins numbered 5, 11, and 13 of the House No. 2 elevator; clearly observable rodent trails on the surface of the grain of all bins of the House No. 2 elevator, except bin numbered 2 which was empty, and bins numbered 1 and 4, which were not full enough to be observed; approximately 20 rat pellets on the surface of the wheat in the chute from bin numbered 5 of the House No. 2 elevator; approximately 50 rat pellets at the west side of the foundation area beneath bin numbered 3 of the House No. 2 elevator; 4 rat pellets adjacent to several bushels of spilled barley in the foundation area beneath the bins of the House No. 2 elevator; spilled grain and 6 rat pellets beneath the driveway at the north side of the dump pit of the House No. 2 elevator; boot pit and back pit beneath the House No. 2 elevator not completely enclosed; two openings in the top of the conveyor of the Annex structure where rodents could enter; rodent tracks on the surface of the barley in all four bins of the Annex structure; and a dead mouse on a pile of spilled barley beneath the Annex structure.

The complaint alleged further that the defendants were well aware that the House No. 2 and the Annex structure were rodent infested; that food being stored therein was contaminated; and that their activities were in violation of the Act. Inspections of defendants' grain elevator facility at Englevale, N. Dak., were made on 10-23-58; 5-2/3-62; 9-10-62; and 10-2-62. Upon the completion of each of the above inspections, a report was given to the manager of the Englevale Elevator Co., which noted, in each report, the continuing rodent infestation of the House No. 2 elevator and the Annex structure.

*See also Nos. 29816, 29817, 29819.

The complaint alleged also that despite the warnings conveyed to the defendants by the aforesaid inspection, the defendants had failed to correct the insanitary conditions at the House No. 2 elevator and the Annex structure and continued to introduce and cause to be introduced into interstate commerce, wheat and barley adulterated as specified above.

DISPOSITION: On 12-13-62, a temporary restraining order was entered restraining the defendants from introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat and barley for human consumption and any similar article of food which was adulterated within the meaning of 402(a)(3), in that it consisted in part of a filthy substance, and within the meaning of 402(a)(4) in that it had been held under insanitary conditions whereby it may have become contaminated with filth; or from introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat and barley for human consumption and any similar article of food held at defendants' wooden crib-type grain elevator designated as House No. 2 and wooden double-walled grain-storage structure adjacent thereto designated the Annex, at Englevale, N. Dak., unless and until (a) the House No. 2 elevator and the said Annex structure were thoroughly cleaned or renovated and rendered suitable for use in connection with the storage of wheat and barley for human consumption and any similar article of food, to wit, unless and until all rodents and rodent filth were removed from the House No. 2 elevator and the Annex structure; the equipment used in storing such food was cleaned; all rodent infestation in and about the House No. 2 elevator and the Annex structure was eliminated; the means of ingress and egress of the House No. 2 elevator and the Annex structure by rodents was closed; and any similar insanitary conditions which might result in wheat or barley for human consumption or any similar article being contaminated with filth while held at the House No. 2 elevator and the Annex structure were eliminated; and (b) all of the wheat and barley which was on hand at the House No. 2 elevator and the Annex structure at the time the House No. 2 elevator and the Annex structure was cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, and all expenses of such supervision were paid by the defendants. Thereafter, the temporary restraining order was continued in effect until 4-1-63, and in accordance with the terms of a proposal dated 1-22-63, and an amended proposal dated 3-14-63, entered by the defendants, the contaminated grain stored in the facility was disposed of for animal feed under the supervision of the Food and Drug Administration.

29822. Wheat. (F.D.C. No. 48790. S. No. 83-212 V.)

QUANTITY: 123,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-6-63, from Armourdale, N. Dak., by Armourdale Equity Elevator.

LIBELED: 5-31-63, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 6-27-63. Consent—claimed by Armourdale Equity Elevator. Reconditioned and segregated; 13,070 lbs. destroyed.

29823. Wheat. (F.D.C. No. 49316. S. No. 34-909 X.)

QUANTITY: 123,067 lbs. at Minneapolis, Minn.

SHIPPED: 8-21-63, from Linton, N. Dak., by Farmers Elevator Co., of Linton.

LIBELED: 9-13-63, Dist. Minn.

CHARGE: 402(a)(3)—contained moldy wheat when shipped.

DISPOSITION: 9-18-63. Consent—claimed by Farmers Elevator Co., of Linton. After the claimant had conducted a feeding test on poultry, the article was converted into poultry feed.

29824. Wheat. (F.D.C. No. 49606. S. No. 69-927 A.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 1-4-64, from New Town, N. Dak., by New Town Grain Co.

LIBELED: 1-23-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent pellets when shipped.

DISPOSITION: 1-29-64. Consent—claimed by New Town Grain Co., and reconditioned.

29825. Wheat. (F.D.C. No. 49794. S. No. 103-803 A.)

QUANTITY: 82,180 lbs. at Spokane, Wash.

SHIPPED: 12-18-63, from Choteau, Mont., by Sims Elevator Co.

LIBELED: 2-5-64, E. Dist. Wash.

CHARGE: 402(a)(3)—when shipped, contained moldy, musty wheat; 402(b)(2)—stones had been substituted for wheat; and 402(b)(4)—stones had been added, mixed, or packed with the article so as to increase its bulk or weight.

DISPOSITION: 2-17-64. Consent—claimed by Coast Trading Co., Spokane, Wash., and denatured.

29826. Wheat. (F.D.C. No. 49612. S. No. 39-112 A.)

QUANTITY: 27,600 lbs. at Enid, Okla.

SHIPPED: 1-21-64, from Anthony, Kans., by Anthony Cooperative.

LIBELED: 1-27-64, W. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent pellets when shipped.

DISPOSITION: 2-28-64. Consent—claimed by Anthony Farmers Cooperative Co., Anthony, Kans., and denatured for use as animal feed.

29827. Wheat. (F.D.C. No. 49841. S. No. 103-320 A.)

QUANTITY: 89,750 lbs. at Malden, Wash.

SHIPPED: 2-25-64, from Suffolk, Mont., by Montana Elevator Co.

LIBELED: 3-16-64, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-25-64. Consent—claimed by Lees, Carney & Co., Portland, Oreg., and denatured for use as animal feed.

29828. Wheat. (F.D.C. No. 50051. S. No. 103-328 A.)

QUANTITY: 85,000 lbs., at Spokane, Wash.

SHIPPED: 4-3-64, from Rudyard, Mont., by General Mills, Inc.

LIBELED: 4-16-64, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-23-64. Consent—claimed by Lees, Carney & Co., Portland, Oreg., and denatured for use as animal feed.

29829. Wheat and barley mixture. (F.D.C. No. 50077. S. No. 69-772 A.)

QUANTITY: 80,160 lbs. at Minneapolis, Minn.

SHIPPED: 4-22-64, from Britton, S. Dak., by Farmers Cooperative Grain Co.

LIBELED: 5-5-64, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-15-64. Consent—claimed by Farmers Cooperative Grain Co., Britton, S. Dak., and denatured.

29830. Wheat. (F.D.C. No. 50052. S. No. 57-225 A.)

QUANTITY: 90,000 lbs. at Kansas City, Kans.

SHIPPED: 4-9-64, from Reager, Kans., by N. L. Johnson Grain Co.

LIBELED: 4-29-64, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-15-64. Consent—claimed by N. L. Johnson Grain Co., Reager, Kans. Reconditioned and segregated; 7,140 lbs. denatured.

29831. Wheat. (F.D.C. No. 50041. S. No. 54-320 A.)

QUANTITY: 31,580 lbs. at Warsaw, Mo.

SHIPPED: 3-27-64, from Warsaw, Mo., to Kansas City, Kans., by MFA Producers Exchange No. 85, and subsequently returned.

RESULTS OF INVESTIGATION: The article consisted of a commingled lot of which 28,140 lbs. had been shipped as described above.

LIBELED: 4-7-64, W. Dist. Mo.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-19-64. Consent—claimed by MFA Producers Exchange No. 85, and denatured for use as animal feed.

29832. Wheat. (F.D.C. No. 50069. S. No. 57-567 A.)

QUANTITY: 114,000 lbs. at Kansas City, Kans.

SHIPPED: 4-15-64, from Waterville, Kans., by Farmers Cooperative Grain Association to Kansas City, Mo., and subsequently reshipped to Kansas City, Kans.

LIBELED: 4-29-64, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-19-64. Consent—claimed by the Farmers Union Cooperative Marketing Association. Reconditioned and segregated; 6,930 lbs. denatured.

29833. Wheat. (F.D.C. No. 50080. S. No. 59-190 A.)

QUANTITY: 100,000 lbs. at Kansas City, Kans.

SHIPPED: 4-25-64, from York, Nebr., by Otto Bros.

LIBELED: 5-26-64, Dist. Kans.

CHARGE: 402(a) (3)—contained insect-damaged wheat kernels when shipped.

DISPOSITION: 6-10-64. Consent—claimed by Otto Bros. Reconditioned; 16,460 lbs. destroyed.

29834. Wheat. (F.D.C. No. 50058. S. No. 57-236 A.)

QUANTITY: 109,080 lbs. at Kansas City, Kans.

SHIPPED: 4-9-64, from Herndon, Kans., by Herndon Equity Cooperative Association, to Kansas City, Mo., and subsequently reshipped.

LIBELED: 4-30-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-16-64. Consent—claimed by Scoular-Bishop Grain Co. Reconditioned; 15,370 lbs. destroyed.

29835. Wheat. (F.D.C. No. 50242. S. No. 68-560 A.)

QUANTITY: 106,800 lbs. at Minneapolis, Minn.

SHIPPED: 6-12-64, from Wessington Springs, S. Dak., by Jerauld County Farmers Union.

LIBELED: 6-25-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-9-64. Consent—claimed by Jerauld County Farmers Union and denatured.

29836. Wheat. (F.D.C. No. 50257. S. Nos. 68-742 A, 70-543 A.)

QUANTITY: 95,400 lbs. at Minneapolis, Minn.

SHIPPED: 7-1-64, from Four Buttes, Mont., by Farmers Elevator Co., of Four Buttes.

LIBELED: 7-15-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-64. Consent—claimed by Farmers Elevator Co., of Four Buttes, Mont., and denatured for use as animal feed.

29837. Wheat. (F.D.C. No. 50255. S. Nos. 56-252 A, 56-286 A.)

QUANTITY: 90,500 lbs. at Fremont, Nebr.

SHIPPED: 6-8-64, from Sedan, Kans., by Sedan Seed House, Inc.

LIBELED: 7-14-64, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-31-64. Consent—claimed by Sedan Seed House, Inc., and denatured for use as animal feed.

29838. Wheat. (F.D.C. No. 50267. S. No. 103-685 A.)

QUANTITY: 127,200 lbs. at Spokane, Wash.

SHIPPED: 7-23-64, from Kremlin, Mont., by Centennial Mills, Inc.

LIBELED: 8-3-64, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-5-64. Consent—claimed by Centennial Flouring Mills Co., and denatured.

29839. Wheat. (F.D.C. No. 50266. S. No. 70-460 A.)

QUANTITY: 82,000 lbs. at Minneapolis, Minn.

SHIPPED: 7-10-64, from Overly, N. Dak., by Gardena Grain Co.

LIBELED: 8-3-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-6-64. Consent—claimed by Gardena Grain Co., and denatured for use as animal feed.

29840. Wheat. (F.D.C. No. 50504. S. No. 59-500 A.)

QUANTITY: 132,600 lbs., at Kansas City, Kans.

SHIPPED: 7-24-64, from St. Francis, Kans., by St. Francis Mercantile Equity Exchange, to Kansas City, Mo., and subsequently reshipped.

LIBELED: 8-17-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-25-64. Consent—claimed by St. Francis Mercantile Equity Exchange. Reconditioned; 22,400 lbs. destroyed.

29841. Wheat. (F.D.C. No. 50501. S. No. 73-969 A.)

QUANTITY: 120,400 lbs. at Mobile, Ala.

SHIPPED: 7-3-64, from Maroa, Ill., by Pillsbury Co.

LIBELED: 8-11-64, S. Dist. Ala.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 9-15-64. Default—destruction.

29842. Barley malt. (F.D.C. No. 50561. S. Nos. 89-902/4 A.)

QUANTITY: 405,000 lbs. at Philadelphia, Pa.

SHIPPED: Between 3-23-64 and 7-14-64, from Chicago, Ill., Manitowoc, Wis., and Milwaukee, Wis.

LIBELED: 9-4-64, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-23-64. Consent—claimed by Henry F. Ortlieb Brewing Co., Philadelphia, Pa., for denaturing and artificially coloring for use as animal feed.

29843. Bran, flaked wheat, and flaked rye. (F.D.C. No. 48588. S. Nos. 53-355/8 V, 53-360 V.)

QUANTITY: 573 70-lb. bags of clean bran, 18 100-lb. bags of flaked wheat, 15 100-lb. bags of flaked rye, and 666 90-lb. bags of flaked wheat, at Tacoma, Wash.

SHIPPED: Between 10-15-62 and 11-13-62, from Bozeman, Mont., by Montana Flour Mills Co.

LABEL IN PART: (Tag) "Clean Bran [or "Flaked Wheat" or "Flaked Rye"] Manufactured by Montana Flour Mills Company General Offices—Great Falls, Mont."

RESULTS OF INVESTIGATION: Results of investigation revealed that the 666 90-lb. bags of flaked wheat were held in a rodent-infested railroad car. Investigation did not show that the article was adulterated when shipped. Inspection of the manufacturer showed that the other lots were held under insanitary conditions and were adulterated when shipped.

LIBELED: 1-11-63, W. Dist. Wash.

CHARGE: 402(a)(3)—a portion of the bran and both lots of flaked wheat contained rodent urine; and 402(a)(4)—all lots were held under insanitary conditions when shipped except the 666 90-lb. bags of flaked wheat held under insanitary conditions while in interstate commerce.

DISPOSITION: 2-6-63. Consent—the 666-bag lot of flaked wheat was claimed by Chicago, Milwaukee, St. Paul, & Pacific Railroad Co., Seattle, Wash., and the other lots were claimed by Roman Meal Co., Tacoma, Wash. The flaked wheat was segregated; 9,780 lbs. denatured. The other articles were denatured.

29844. Meat binder and unpopped popcorn. (F.D.C. No. 50659. S. Nos. 41-201/2 A.)

QUANTITY: 126 100-lb. bags of meat binder, and 16 50-lb. bags of popcorn, at Houston, Tex., in possession of Houston Terminal Warehouse & Cold Storage Co.

SHIPPED: On 12-30-63 and 6-22-64, from Chicago, Ill., and Trenton, Mo.

LIBELED: 10-8-64, S. Dist. Tex.

CHARGE: 402(a)(3)—the popcorn contained insects, insect larvae, and rodent-damaged kernels, the meat binder contained rodent gnawings; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-17-64. Default—destruction.

29845. Rice and unpopped popcorn. (F.D.C. No. 50570. S. Nos. 4-498/9 A, 5-457/9 A.)

QUANTITY: 164 50-lb. bags of popcorn, and 147 bales, each containing 30 3-lb. bags of enriched rice, at Charlotte, N.C., in possession of American Storage & Warehouse, Inc.

SHIPPED: Between 3-13-64 and 7-2-64, from Abbeville, La., Sioux City, Iowa, and Murray, Ky.

LIBELED: 9-9-64, W. Dist. N.C.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-9-64. Default—ordered denatured and delivered to a charitable institution for use as animal feed.

29846. Yellow cake mix. (F.D.C. No. 49827. S. No. 78-299 X.)

QUANTITY: 2,100 cases, each containing 6 5-lb. cans, at Oakland, Calif.

SHIPPED: 10-7-63, from Portland, Oreg., by Honl Manufacturing Co.

LABEL IN PART: (Can) "Bakery Mix Prepared Type 1, Cake Mix Class 2, Yellow Cake—Premixed By Honl Manufacturing Co. Portland, Oregon."

LIBELED: 3-6-64, N. Dist. Calif.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous or deleterious substance, salmonella micro-organisms, which may render it injurious to health.

DISPOSITION: 7-9-64. Default—destruction.

29847. Cake mix, all-purpose flour, enriched flour and enriched bleached flour. (F.D.C. No. 49935. S. Nos. 34-610/11 A, 34-613 A, 31-617 A.)

QUANTITY: 8 cases, each containing 12 1-lb. 3-oz. boxes of cake mix; 15 25-lb. bags of all-purpose flour; 36 25-lb. bags of enriched bleached flour; and 19 100-lb. bags of enriched flour, at Mayfield, Ky., in possession of Covington Bros. Co.

SHIPPED: Between 9-12-63 and 11-7-63, from Memphis, Tenn.; Chester, Ill.; and Shawnee, Okla.

LIBELED: 3-20-64, W. Dist. Ky.

CHARGE: 402(a)(3)—the cake mix contained insects and insect fragments, the all-purpose flour and the enriched flour contained rodent excreta pellets, and all the articles except the cake mix contained rodent urine; and 402(a)(4)—all the articles except the cake mix had been held under insanitary conditions.

DISPOSITION: 5-5-64. Default—destruction.

29848. Hand-Cuts and cruller mix. (F.D.C. No. 50529. S. No. 22-582 A.)

QUANTITY: 15 100-lb. bags, at Rochester, N.Y., in possession of Head-Miller, Inc.

SHIPPED: 6-12-62 and 9-5-62, from Hillsdale, Mich.

LIBELED: 9-23-64, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-30-64. Default—destruction.

29849. Brewers rice grits. (F.D.C. No. 49818. S. No. 84-133 A.)

QUANTITY: 114,288 lbs. at St. Louis, Mo.

SHIPPED: 1-27-64, from Kaplan, La., by Kaplan Rice Mill, Inc.

LIBELED: 2-28-64, E. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, contained insect fragments and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-18-64. Consent—claimed by Kaplan Rice Mill, Inc. Segregated; 300 lbs. destroyed.

29850. Shredded wheat. (F.D.C. No. 50593. S. No. 58-517 A.)

QUANTITY: 50 cases, each containing 24 10¼-oz. 12-biscuit pkgs., at Kansas City, Kans.

SHIPPED: 8-24-64, from Peoria, Ill., by National Biscuit Co., Chicago, Ill.

LABEL IN PART: (Pkg.) "Nabisco Shredded Wheat * * * Nabisco Breakfast Table Almanac Vol. 1. * * * A Reliable Guide * * * Cholesterol and You * * * National Biscuit Company Special Products Division, New York, N.Y."

LIBELED: 9-24-64, Dist. Kans.

CHARGE: 403(a)—when shipped, the labeling of the article was false and misleading in that it contained statements which represented and suggested that the article was adequate and effective to lower blood cholesterol levels and to prevent and treat serious heart illnesses, excessive cholesterol accumulation in the arteries, strokes, diseases affecting the extremities when caused by cholesterol deposits in the foot and leg arteries, and that use of the article would contribute significant quantities of vegetable fat to the diet for the purposes of reduction of blood cholesterol.

DISPOSITION: 12-9-64. Default—delivered to charitable institutions.

DAIRY PRODUCTS***BUTTER**

29851. Butter. (F.D.C. No. 47653. S. No. 29-013 X.)

QUANTITY: 33 64-lb. boxes at Chicago, Ill.

SHIPPED: 7-24-63, from Pender, Nebr., by Farmers Creamery Co.

LABEL IN PART: (Box) "CREAMERY BUTTER."

LIBELED: 8-8-63, N. Dist. Ill.

CHARGE: 402(a) (3)—contained decomposed cream when shipped.

DISPOSITION: 12-17-63. Consent—claimed by H. C. Christians Co., and reconditioned by processing into butter oil.

29852. Butter. (F.D.C. No. 50187. S. No. 78-431 A.)

QUANTITY: 62 68-lb. ctns. at Jersey City, N.J.

SHIPPED: 3-7-64, from Flushing, Ohio, by Cloverland Dairy.

LABEL IN PART: (Ctn.) "Butter L.D. Schreiber & Co., Inc. Sales Agent for The Marketing Association of America * * * Churn No. 654."

LIBELED: 4-8-64, Dist. N.J.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 percent by weight of milk fat was substituted for butter.

DISPOSITION: 5-19-64. Consent—claimed by the Marketing Association of America and rechurned.

29853. Butter. (F.D.C. No. 50188. S. Nos. 32-933/4 A.)

QUANTITY: 1 case, containing 50 1-lb. ctns., and 106 1-lb. ctns., at Newport, Ky.

SHIPPED: 6-30-64 and 7-7-64, from Cincinnati, Ohio, by J. C. Taylor Creamery, Inc.

LABEL IN PART: (Ctn.) "Louis Trauth's Sweet Cream Butter."

LIBELED: 7-23-64, E. Dist. Ky.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 9-23-64. Default—ordered to be delivered to a charitable institution or destroyed.

29854. Butter. (F.D.C. No. 50191. S. No. 89-030 A.)

QUANTITY: 824 60-lb. cubes at St. Louis, Mo.

SHIPPED: 4-17-64, from South Bend, Ind., by Mid West Producers Creameries, Inc.

LABEL IN PART: (Box) "Creamery Butter * * * Producers Dairy Marketing Association, Orleans, Indiana."

LIBELED: 8-31-64, E. Dist. Mo.

CHARGE: 403(a)—when shipped, the labeling of the article was false and misleading, since the article was labeled as butter, a product which should contain not less than 80 percent of milk fat, and the article contained less than 80 percent by weight of milk fat.

*See also No. 29814.

DISPOSITION: 10-30-64. Consent—claimed by Producers Dairy Marketing Association, Inc., Orleans, Ind., for reprocessing.

29855. Butter. (F.D.C. No. 50196. S. No. 55-881 A.)

QUANTITY: 29 boxes at St. Paul, Minn.

SHIPPED: 10-15-64, from Ledyard, Iowa, by Ledyard Farmers Creamery & Locker Co.

LABEL IN PART: (Boxes) "64 Net Butter Armour Creameries Distributors Genl. Office—Chicago, Ill."

LIBELED: 10-29-64, Dist. Minn.

CHARGE: 402(a)(3)—when shipped, contained insect and rodent hair fragments and had been made from filthy cream.

DISPOSITION: 12-11-64. Default—destruction.

29856. Butter. (F.D.C. No. 50664. S. Nos. 105-142/6 A.)

QUANTITY: 48 cases, each containing 30 individually wrapped 1-lb. prints, at Pasco, Wash.

SHIPPED: Between 8-20-64 and 9-11-64, from Grangeville, Idaho, by Grangeville Creamery.

LABEL IN PART: (Case) "Grangeville Creamery—Grangeville, Idaho."

LIBELED: 10-13-64, E. Dist. Wash.

CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives DDT, DDD, and DDE, which were unsafe within the meaning of 409, since they and their use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 12-18-64. Consent—destruction.

CHEESE

29857. Romano cheese. (F.D.C. No. 48146. S. Nos. 12-542/3 T.)

INFORMATION FILED: 11-23-62, N. Dist. Ill., against Forrester Swiss Cheese Co., a partnership, and Chester Strehlow, plant manager, Forrester, Ill.

SHIPPED: 11-29-61 and 12-7-61, from Illinois to Wisconsin.

CHARGE: 402(a)(3)—contained filth from filthy milk; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-5-64. Each defendant fined \$500, payment of which was suspended.

29858. Various cheeses and canned tomato paste. (F.D.C. No. 50419. S. Nos. 87-276/8 A, 87-280 A.)

QUANTITY: 19 imported 10-lb. provolone cheeses; 10 4½-lb. provolette cheeses; 8 10-lb. salame provolone cheeses; 19 54-lb. cases of provolette cheeses; 146 lbs. of grated romano cheese; and 88 cases, each containing 6 6-lb. 15-oz. cans of tomato paste, at Philadelphia, Pa.

SHIPPED: Between 1-23-61 and 1-27-64, from Campbellsport and Plymouth, Wis., Italy, and Escalon, Calif.

RESULTS OF INVESTIGATION: Examination showed that the 146 pounds of grated romano cheese had been grated by the dealer from romano cheese shipped from Plymouth, Wis., as above.

LIBELED: 8-3-64, E. Dist. Pa.

CHARGE: 402(a)(3)—the imported provolone cheeses contained insects, the remaining cheeses contained mites, and the tomato paste contained a decomposed substance while held for sale.

DISPOSITION: 10-21-64. Default—destruction.

EGGS

29859. Dried eggs. (F.D.C. No. 49884. S. Nos. 227-730 X, 59-651/2 X, 55-381 A.)

QUANTITY: 40 175-lb. drums at Malvern, Iowa.

SHIPPED: 10-10-63, from Paynesville, Minn.

LABEL IN PART: (Drum) "Henningsen Hentex An Egg Solids Product 10—Packed by Henningsen Foods, Inc. New York, N.Y."

RESULTS OF INVESTIGATION: The article was shipped as liquid whole eggs and after receipt by Henningsen Foods, Inc., at Malvern, Iowa, was dried and labeled as described above.

LIBELED: 3-19-64, S. Dist. Iowa.

CHARGE: 402(a)(3)—while held for sale, contained a decomposed substance.

DISPOSITION: 5-11-64. Consent—claimed by Henningsen Foods, Inc., and denatured for use as animal feed.

29860. Frozen eggs. (F.D.C. No. 49225. S. No. 3-485 X.)

QUANTITY: 528 30-lb. cans at Washington, D.C.

SHIPPED: 7-23-63, from Itta Bena, Miss., by J. O. Russell, Southern Farms.

LABEL IN PART: (Can) "Packed by Southern Farms, Itta Bena, Mississippi Whole Eggs."

LIBELED: 8-14-63, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 11-22-63. Consent—claimed by Southern Farms. Segregated; 196 cans denatured.

29861. Frozen eggs. (F.D.C. No. 49967. S. No. 38-402 A.)

QUANTITY: 420 30-lb. cans, at Fort Worth, Tex.

SHIPPED: 2-18-64, from Hope, Ark., by Delight Egg Farms, Inc.

LABEL IN PART: (Can) "Whole Eggs * * * Packed by Delight Egg Farms, Inc., Hope, Arkansas."

LIBELED: 4-17-64, N. Dist. Tex.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 6-11-64. Consent—claimed by Delight Certified Egg Farms, Inc., Hope, Ark. Segregated; 48 cans denatured.

29862. Frozen eggs. (F.D.C. No. 50408. S. Nos. 61-174/6 A.)

QUANTITY: 1,039 30-lb. cans at Phoenix, Ariz., in possession of Suncrest Poultry Farms, Inc.

SHIPPED: Prior to 7-2-64, from Romana, Calif., and vicinity.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Suncrest Poultry Farms, Inc., Phoenix, Arizona."

RESULTS OF INVESTIGATION: The article had in part been shipped as above in the form of shell eggs. All of the article had been prepared and packed by the dealer.

LIBELED: 7-29-64, Dist. Ariz.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 8-21-64. Consent—claimed by Suncrest Poultry Farms, Inc. Segregated and reconditioned; 109 cans destroyed.

29863. Frozen eggs. (F.D.C. No. 50389. S. No. 9-868 A.)

QUANTITY: 100 30-lb. cans at Baltimore, Md.

SHIPPED: 12-10-63, from Hope, Ark., and/or Little Rock, Ark., by Delight Certified Egg Farms, Inc.

LABEL IN PART: (Can) "Whole Eggs * * * Packed by Delight Egg Farms, Inc., Hope, Arkansas."

LIBELED: 7-13-64, Dist. Md.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-14-64. Default—a sample was delivered to the Food and Drug Administration, and the remainder was destroyed.

29864. Frozen eggs. (F.D.C. No. 50237. S. No. 50-331 A.)

QUANTITY: 50 30-lb. cans at Detroit, Mich.

SHIPPED: 5-29-64, from Wauseon, Ohio, by F. E. Smith.

LABEL IN PART: (Can) "Fresh Frozen Whole Eggs From The Top Quality Egg Farm Packed by F. E. Smith Wauseon, Ohio."

LIBELED: 6-23-64, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-17-64. Default—destruction.

29865. Frozen egg whites. (F.D.C. No. 50691. S. No. 9-900 A.)

QUANTITY: 665 30-lb. cans at Baltimore, Md.

SHIPPED: 9-8-64, from Gainesville, Ga., by Seymour Foods of Georgia, Inc.

LABEL IN PART: (Can) "Egg Products Selected Eggs * * * WHITES Seymour Foods Inc. General Office Topeka, Kansas 30 lbs. Net."

LIBELED: 11-1-64, Dist. Md.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 11-25-64. Default—destruction.

FEEDS AND GRAINS

29866. Alfalfa hay. (F.D.C. No. 50081. S. No. 43-156 A.)

QUANTITY: 200 unlabeled 50-lb. bales at Woods Cross, Utah.

SHIPPED: 4-14-64, from Menan, Idaho, by Cecil Green.

LIBELED: 5-5-64, Dist. Utah.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, dieldrin, which was unsafe within the meaning of 408(a), since the quantity of such pesticide chemical

on alfalfa hay was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 7-8-64. Default—destruction.

29867. Alfalfa hay. (F.D.C. No. 50538. S. No. 65-121 A.)

QUANTITY: 44,000 lbs. in unlabeled bales at Chino, Calif.

SHIPPED: 9-15-64, from Parker, Ariz., by Union Gin Co., Inc.

LIBELED: 10-5-64, S. Dist. Calif.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, endrin, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on alfalfa hay had been prescribed by regulations.

DISPOSITION: 12-7-64. Default—destruction.

29868. Safflower seed. (F.D.C. No. 49578. S. Nos. 30-476 X, 58-504 X.)

QUANTITY: 3,840 tons at San Pedro, Calif., in possession of Los Angeles Harbor Grain Terminal.

SHIPPED: Between 7-22-63 and 9-19-63, from the State of Arizona.

RESULTS OF INVESTIGATION: Investigation indicated that approximately 88 percent of the article had been shipped as above and thereafter had become commingled with local safflower seed.

LIBELED: 1-7-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect webbing, and excreta, and bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-27-64. Consent—claimed by Pacific Vegetable Oil Corp., San Francisco, Calif. Reconditioned and segregated; 4,000 lbs. destroyed and 183,040 lbs. converted into animal feed.

29869. Canned dog food. (F.D.C. No. 50392. S. No. 103-180 A.)

QUANTITY: 508 cases, each containing 24 15½-oz. cans, at Portland, Oreg.

SHIPPED: 4-7-64, from Marion, Ohio, by Quaker Oats Co.

LABEL IN PART: (Case) "Ken-L Burger For Dogs * * * Quaker Oats Company Ken L. Products Division * * * Chicago USA."

RESULTS OF INVESTIGATION: Examination showed that the article was a ground meat product in unlabeled cans.

LIBELED: 7-22-64, Dist. Oreg.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of contents; and 403(i)—the label failed to bear (1) the common or usual name of the food, and (2) the common or usual name of each ingredient.

DISPOSITION: 9-18-64. Default—delivered to a charitable institution.

FISH AND SHELLFISH

29870. Anchovies. (F.D.C. No. 50443. S. Nos. 60-281/5 A.)

QUANTITY: 493 cases, each containing 100 cans, at Los Angeles, Calif.

SHIPPED: 6-1-64, from Portimao, Portugal, by Sociedade Peninsular de Importacao & Exportacao, Lda.

LABEL IN PART: (Can) "Dainty Flat Fillet of Anchovies * * * Product of Portugal Net Weight 2 Oz. Avoir, * * * Importe Du Packed in Prepareen, Portugal."

RESULTS OF INVESTIGATION: The article was between approximately 3.5 percent and 4.5 percent short weight.

LIBELED: 8-17-64, S. Dist. Calif.

CHARGE: 403(e) (2)—when shipped, the label of the article failed to contain an accurate statement of the quantity of contents.

DISPOSITION: 12-3-64. Consent—claimed by Mailliard & Schmiedell, San Francisco, Calif., for reshipment to original shipper.

29871. Frozen halibut. (F.D.C. No. 50831. S. No. 81-703 A.)

QUANTITY: 16 unlabeled boxes, containing approximately 2,412 lbs., at Monmouth Beach, N.J.

SHIPPED: 6-26-64, from New York, N.Y.

LIBELED: On or about 11-17-64, Dist. N.J.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-23-64. Default—destruction.

29872. Frozen perch fillets. (F.D.C. No. 49636. S. No. 8-210 X.)

QUANTITY: 6 cases, each containing 5 unlabeled 10-lb. ctns., and 1 case, containing 4 unlabeled 10-lb. ctns., at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Ethelena" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, and landed at Boston, Mass., on 10-16-63.

LABEL IN PART: (Case) "Turner Fish * * * Perch F."

LIBELED: 12-11-63, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped.

DISPOSITION: 4-10-64. Default—destruction.

29873. Breaded pollock fillets. (F.D.C. No. 49432. S. No. 60-023 X.)

QUANTITY: 206 cases, each containing 9 5-lb. 2-oz. pkgs., at Sioux City, Iowa.

SHIPPED: Between 1-12-63 and 3-13-63, from Detroit, Mich., by F. W. Bryce, Inc.

LABEL IN PART: (Case) "F. W. Bryce, Inc. * * * Breaded Haddock Portion"; and (pkg.) "Breaded Haddock."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of breaded portions of fish prepared from pollock, not haddock, as stated in the label.

LIBELED: 10-29-63, N. Dist. Iowa.

CHARGE: 402(b)(2)—when shipped, pollock had been substituted in whole or in part for haddock; 403(a)—the label statements “Haddock” were false and misleading as applied to products consisting of portions of fish prepared from pollock, not haddock; 403(b)—portions of pollock had been offered for sale under the name of another food, namely, haddock; 403(e)(1)—the article failed to bear a (pkg.) label containing the name and address of the manufacturer, packer, or distributor; 403(i)(2)—the labels of the article failed to bear the common or usual name of each ingredient.

DISPOSITION: 11-11-63. Claimed by Stoller Fisheries, Inc., Spirit Lake, Iowa. Segregated and relabeled; 6 cases denatured.

29874. Canned tunafish. (F.D.C. No. 50271. S. No. 94-384 A.)

QUANTITY: 13 cases, each containing 12 4-lb. 2½-oz. cans, at Alton, Ill.

SHIPPED: Prior to 1-14-64, from New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 8-7-64, S. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 9-14-64. Default—destruction.

29875. Canned tunafish. (F.D.C. No. 50598. S. Nos. 9-944 A, 11-713 A.)

QUANTITY: 41 cases, each containing 12 4-lb. 2½-oz. cans, at Arlington, Va.

SHIPPED: 5-6-64, from New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 9-29-64, E. Dist. Va.

CHARGE: 402(a)(3)—contained decomposed tunafish while held for sale.

DISPOSITION: 11-5-64. Default—destruction.

29876. Canned frozen oysters. (F.D.C. No. 50245. S. No. 66-584 A.)

QUANTITY: 198 cases, each containing 12 12-oz. cans, at Minneapolis, Minn.

SHIPPED: 9-5-63, from Tilghman, Md., by the Tilghman Packing Co.

LABEL IN PART: (Can) “Tilghman Brand Frozen Oysters * * * Packed By The Tilghman Packing Co., Tilghman, Maryland.”

RESULTS OF INVESTIGATION: Examination showed the average drained liquid to be 49.7 percent of the article.

LIBELED: 6-30-64, Dist. Minn.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for oysters; 403(a)—the label statement “Oysters” was false and misleading as applied to a product consisting in part of water; and 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient, since added water had not been declared.

DISPOSITION: 8-13-64. Consent—claimed by Tilghman Packing Co., for reprocessing and relabeling.

29877. Canned shrimp. (F.D.C. No. 50527. S. No. 56-255 A.)

QUANTITY: 66 cases, each containing 24 4½-oz. cans, at Omaha, Nebr.

SHIPPED: 11-8-63 and 2-15-64, from Harvey, La.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition and contained coagulase positive staphylococci.

LIBELED: 9-18-64, Dist. Nebr.

CHARGE: 402(a) (3)—the article contained a decomposed substance while held for sale.

DISPOSITION: 11-6-64. Default—destruction.

29878. Frozen shrimp. (F.D.C. No. 50663. S. Nos. 43-023 A, 45-331 A.)

QUANTITY: 35 cases, each containing 6 bags, at Denver, Colo.

SHIPPED: 6-16-64, from Tampa, Fla., by Ocean Products, Inc.

LABEL IN PART: (Case) "Treasure Isle Brand * * * Peeled Deveined Shrimp 15-20 T-Off * * * Packed by Ocean Products, Inc. Tampa, Florida," and (bag) "Treasure Isle Shrimp Ready To Cook * * * Net Weight 3 Lbs. Packed by Ocean Products, Inc. Tampa, Florida."

RESULTS OF INVESTIGATION: Examination showed the article to be approximately 18.5 percent short weight.

LIBELED: 10-15-64, Dist. Colo.

CHARGE: 403(a)—when shipped, the label statement "15-20" was false and misleading as applied to a product containing more than 20 shrimp per pound; and 403(e) (2)—the article was food in package form and it failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "Net Weight 3 Lbs." was inaccurate.

DISPOSITION: 11-20-64. Consent—claimed by Ocean Products, Inc., Tampa, Fla., for relabeling.

FRUITS AND VEGETABLES

CANNED FRUIT

29879. Canned peaches. (F.D.C. No. 49885. S. No. 103-086 A.)

QUANTITY: 100 cases, each containing 24 1-lb. 12-oz. cans, at Portland, Oreg.

SHIPPED: 9-16-63, from Wenatchee, Wash., by D & D Foods, Inc.

LABEL IN PART: (Can) "Black & Gold Fancy Halves Yellow Elberta Free-stone Peaches * * * Packed by D & D Foods, Inc., Wenatchee, Wash. In Extra Heavy Syrup."

LIBELED: 4-27-64, Dist. Oreg.

CHARGE: 403(g) (2)—when shipped, the article's label failed to bear as required by the definition and standard of identity for canned peaches, the name of the optional packing medium present in such food, since its label bore the statement "In Extra Heavy Syrup" whereas the article was packed in a medium designated as "Heavy Syrup."

DISPOSITION: 6-12-64. Default—delivered to a charitable institution.

29880. Canned peaches. (F.D.C. No. 49831. S. No. 34-502 A.)

QUANTITY: 633 cases, each containing 24 1-lb. 13-oz. cans, at Bloomington, Ind.

SHIPPED: 1-20-64, from Concord, Ga., by Gold Crest Canning Co.

LABEL IN PART: (Can) "Gold Crest Freestone Peaches Halves In Heavy Syrup Packed By Gold Crest Canning Company Concord, Ga."

LIBELED: 3-23-64, S. Dist. Ind.

CHARGE: 403(g)(2)—when shipped, the label of the article failed to bear as required by the definition and standard of identity for canned peaches, the name of the optional packing medium present in such food, since its label bore the statement "Packed In Heavy Syrup," when the article was packed in a medium designated as "Light Syrup" in such definition and standard.

DISPOSITION: 9-8-64. Consent—claimed by John R. Figg, Inc., of Bloomington, Ind., for relabeling.

29881. Canned peaches. (F.D.C. No. 49564. S. No. 26-270 X.)

QUANTITY: 3,252 cases, each containing 24 1-lb. 13-oz. cans, at Fort Wayne, Ind.

SHIPPED: Between 7-10-63 and 7-25-63, from Concord, Ga., by Gold Crest Canning Co., Inc.

LABEL IN PART: (Can) "Gold Crest Freestone Peaches Halves In Heavy Syrup Packed by Gold Crest Canning Company, Concord, Ga."

LIBELED: 12-17-63, N. Dist. Ind.

CHARGE: 403(g)(2)—when shipped, the label of the article failed to bear as required by the definition and standard of identity for canned peaches, the name of the optional packing medium present in such food, since its label bore the statement "In Heavy Syrup" and the article was packed in a medium which was not "Heavy Syrup."

DISPOSITION: 11-6-64. Consent—claimed by A. H. Perfect & Co., Inc., Fort Wayne, Ind., for relabeling.

29882. Canned, red, sour, pitted cherries. (F.D.C. No. 50437. S. Nos. 42-806/7 A.)

QUANTITY: 224 cases, each containing 6 cans, at Denver, Colo.

SHIPPED: 6-5-64, from Ogden, Utah, by Blackinton & Son Canning Co.

LABEL IN PART: (Can) "K-M-C Net Weight 6 Lbs. 7 Oz. Red Sour Pitted Cherries" [some cans labeled "6 Lbs. 12 oz."].

LIBELED: 8-7-64, Dist. Colo.

CHARGE: 403(h)(1)—when shipped, the article failed to conform to the standard of quality for pitted cherries, in that the article contained more than 1 pit in each 20 ounces of canned cherries, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 9-2-64. Consent—claimed by Blackinton & Son Canning Co., for relabeling.

DRIED FRUIT

29883. Pitted dates (2 seizure actions). (F.D.C. Nos. 49939; 50045. S. Nos. 50-126 A, 78-736 A; 44-062 A, 45-160 A, 45-162 A, 45-236/7 A.)

QUANTITY: 4,500 50-lb. ctns., at Port Newark, N.J.; and 592 50-lb. ctns., at Denver, Colo.

SHIPPED: 10-8-63, from Iran; and the 593-ctn. lot further shipped on 2-21-64 to Denver, Colo., by Indiran, Inc., of Parsippany, N.J.

LABEL IN PART: (Ctn.) "Pitted Dates * * * South Abadan, Iran."

RESULTS OF INVESTIGATION: The articles in both actions had been held under insanitary conditions in a rodent-infested warehouse at the Maher Terminal Warehouse Corp., Port Newark, N.J.

LIBELED: 3-26-64, Dist. N.J.; 4-9-64, Dist. Colo.

CHARGE: 402(a) (3)—contained rodent pellets and rodent hairs; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: The articles in both actions were claimed by Lawnelson Corp., New York, N.Y., and on 4-23-64, pursuant to stipulation, the action in the District of Colorado was transferred to the District of New Jersey for consolidation of both actions.

On 4-28-64, a consent decree of condemnation was filed. Thereafter, pursuant to that decree, the articles were segregated and reconditioned under bond; 111 cases were destroyed.

29884. Dried apricots. (F.D.C. No. 45646 A. S. No. 25-726 T.)

QUANTITY: 15 25-lb. cases at Detroit, Mich.

SHIPPED: 9-27-61, from Merced, Calif., by Yosemite Farm.

LABEL IN PART: (Case) "Organically Grown Medium Uns. Apricots Yosemite Farm Merced, Calif. California Fruits."

LIBELED: 11-28-61, E. Dist. Mich.

CHARGE: 402(a) (3)—contained insects and insect excreta when shipped.

DISPOSITION: 9-14-62. Default—destruction.

29885. Dried apricots, dried peaches, and sesame seeds. (F.D.C. No. 49904. S. Nos. 12-386/8 A.)

QUANTITY: 35 30-lb. cases of apricots, 19 30-lb. cases of peaches, and 4¾ 100-lb. bags of sesame seeds, at Boston, Mass., in possession of J. Sklar & Co., Inc.

SHIPPED: Between 3-1-63 and 10-30-63, from San Jose, Calif., and New York, N.Y.

LIBELED: 3-6-64, Dist. Mass.

CHARGE: 402(a) (3)—contained insects (all lots), insect fragments and excreta (peaches and sesame seed), bat excreta (sesame seed), and a decomposed fruit material (peaches); and 402(a) (4)—held under insanitary conditions (peaches and apricots).

DISPOSITION: 10-5-64. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

29886. Fresh cabbage. (F.D.C. No. 49281. S. Nos. 553 X, 2-416 X.)

QUANTITY: 125 unlabeled 50-lb. crates at Miami, Fla.

SHIPPED: 8-8-63, from Hendersonville, N.C., by J. R. Thomas Produce Co.

LIBELED: 8-23-63, S. Dist. Fla.

CHARGE: 402(a) (2) (B)—when shipped, the article contained a pesticide chemical, toxaphene, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on the cabbage was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 8-27-63. Consent—destruction.

*See also Nos. 29816, 29858.

29887. Garbanzo beans. (F.D.C. No. 50304. S. No. 2-360 A.)

QUANTITY: 4 100-lb. bags; and 25 bales, each containing 40 12-oz. pkgs., at Jacksonville, Fla.

SHIPPED: 4-8-64, from Irvine, Calif., by Irvine Bean & Grain Growers Association.

LABEL IN PART: (Bag) "California Garbanzos Packed by Irvine Bean & Grain Growers Association Irvine, Calif."

LIBELED: 6-29-64, M. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—packed under insanitary conditions.

DISPOSITION: 8-20-64. Default—destruction.

29888. Garbanzo beans. (F.D.C. No. 50269. S. No. 58-328 A.)

QUANTITY: 50 100-lb. bags at North Kansas City, Mo.

SHIPPED: 7-13-64, from Stockton, Calif., by Klein Bros., Inc.

RESULTS OF INVESTIGATION: Investigation showed that the article had been held by Valley Bean Warehouse, Inc., under insanitary conditions in rodent-contaminated bags in a rodent-infested warehouse at Stockton, Calif.

LIBELED: 8-3-64, W. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-27-64. Consent—claimed by Aileen Quirk & Sons, North Kansas City, Mo. Segregated; unfit bags denatured for use as animal feed.

29889. Dried beans. (F.D.C. No. 50856. S. Nos. 5-541/52 A.)

QUANTITY: 228 cases, each containing 24 1-lb. bags, 356 cases, each containing 12 2-lb. bags, 358 cases, each containing 6 4-lb. bags, and 62 25-lb. bags, at Winston-Salem, N.C., in possession of Clyde L. Foy Co.

SHIPPED: Between 5-16-61 and 1-9-64, from Denver, Colo.; Knoxville, Tenn.; and Kimberly, Idaho.

LIBELED: 11-27-64, M Dist. N.C.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-22-64. Default—delivered to a charitable institution for use as animal feed.

29890. Dried peas. (F.D.C. No. 50283. S. Nos. 103-243/4 A.)

QUANTITY: 250 100-lb. bags of whole green peas, and 250 100-lb. bags of split peas, at Portland, Oreg., in possession of Albina Dock Co.

SHIPPED: 1-8-64 and 1-10-64, from Spokane, Wash.

LIBELED: 6-12-64, Dist. Oreg.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-15-64. Consent—claimed by Jim T. Shields and William Johnston. Reconditioned and segregated; 83 bags destroyed.

29891. Canned corn. (F.D.C. No. 50650. S. No. 27-282 A.)

QUANTITY: 236 cases, each containing 24 1-lb. cans, at Chicago, Ill.

SHIPPED: 8-6-64, from Lebanon, Ohio, by Tom Corwin Canning Co.

LABEL IN PART: (Can) "Red Rose * * * Cream Style Golden Sweet Corn The Tom Corwin Canning Company Lebanon, Ohio Distributors."

LIBELED: 10-1-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rust fragments when shipped.

DISPOSITION: 12-23-64. Default—destruction.

29892. Canned corn. (F.D.C. No. 50715. S. No. 53-237 A.)

QUANTITY: 498 cases, each containing 24 1-lb. cans, at Detroit, Mich.

SHIPPED: 7-8-64 and 7-20-64, from Lebanon, Ohio, by Tom Corwin Canning Co.

LABEL IN PART: (Can) "Red Rose Cream Style Golden Sweet Corn * * * The Tom Corwin Canning Company, Lebanon, Ohio Distributors."

LIBELED: 10-8-64, E. Dist. Mich.

CHARGE: 402(a)(3)—contained rust fragments when shipped.

DISPOSITION: 12-2-64. Default—destruction.

29893. Sauerkraut. (F.D.C. No. 50511. S. No. 40-807 A.)

QUANTITY: 139 cases, each containing 12 1-lb. bags, at Dallas, Tex.

SHIPPED: 7-13-64, from Waterloo, Wis., by J. G. Van Holten & Son, Inc.

LABEL IN PART: (Bag) "Van Holten's Bulk * * * Sauerkraut * * * Packed by J. G. Van Holten & Son, Inc. Waterloo, Wis."

LIBELED: On or about 8-27-64, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects, insect fragments, and maggots, when shipped.

DISPOSITION: 10-29-64. Default—destruction.

OLEOMARGARINE

29894. Oleomargarine. (F.D.C. No. 46845. S. No. 49-366 T.)

QUANTITY: 75 ctns., each containing 30 1-lb. pkgs., at Sacramento, Calif., in possession of Tiedemann & McMorran, Inc.

SHIPPED: 9-22-61, from Fort Worth, Tex., by Fort Worth Poultry & Egg Co. (formerly Collier Industries and presently a subsidiary of Armour & Co.).

LABEL IN PART: (Pkg.) "Western Lady Brand Colored Vegetable Oleomargarine * * * Packed By Collier Industries, Fort Worth."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight. The cartons containing the article were oil-soaked and broken and the package wrappers were torn and dirty, exposing the article to contamination.

LIBELED: 12-18-61, N. Dist. Calif.

CHARGE: 402(a)(3)—while held for sale, the article was unfit for food; 402(a)(4)—held under insanitary conditions; and 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents when shipped.

DISPOSITION: 5-23-62. Default—destruction.

29895. Oleomargarine. (F.D.C. No. 49855. S. No. 55-148 A.)

QUANTITY: 808 cases, each containing 30 1-lb. boxes of 4 quarters each, at Kansas City, Mo.

SHIPPED: 2-13-64, from Fort Worth, Tex., by Fort Worth Poultry & Egg Co.

LABEL IN PART: (Box) "Ann Page Brand Corn Oil Table Spread Margarine—
The Great Atlantic & Pacific Tea Company, Inc., New York, N.Y. Distributor."

LIBELED: 3-25-64, W. Dist. Mo.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard for oleomargarine since it contained less than 80 percent fat.

DISPOSITION: 4-1-64. Consent—claimed by Armour & Co., and reconditioned.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

29896. Vitamin and mineral capsules. (F.D.C. No. 50413. S. Nos. 30-275/8 A.)

QUANTITY: 32 90-capsule btls. of Pregnancy Formula capsules, 38 100-capsule btls. of Therapeutic Vitamin capsules, 20 250-capsule btls. of Geriatric Formula capsules, and 18 250-capsule btls. of Therapeutic Vitamin capsules, at Louisville, Ky.

SHIPPED: 3-1-64, from New York, N.Y., by Ford Laboratories, Inc., or from Cleveland, Ohio, by Gray Drug Stores, Inc.

LABEL IN PART: (Btls.) "Pregnancy Formula Vitamins & Minerals Ford Laboratories, Inc., dist., New York 36, N.Y. Each capsule contains * * * Menadione (Vitamin K analog) 0.3 mg. * * * Dosage," "Therapeutic Vitamins with Added Minerals Ford Laboratories, Inc. New York 36, N.Y. Each capsule contains: * * * Menadione (Vitamin K analog) 1 mg. * * * dosage," and "Geriatric Formula Ford Laboratories, Inc., New York 36, N.Y. Each capsule contains: * * * Menadione (Vit. K analog) 0.5 mg. * * * Dosage."

LIBELED: 7-31-64, W. Dist. Ky.

CHARGE: 402(a)(2)(C)—when shipped, the articles contained a food additive, menadione, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 10-20-64. Default—destruction.

29897. Vitamin and mineral capsules. (F.D.C. No. 49740. S. No. 7-753 X.)

QUANTITY: 511 unlabeled 100-capsule btls., at Peabody, Mass., in possession of Howard Drug Supply Co., Inc.

SHIPPED: Between 10-1-62 and 1-30-63, from Philadelphia, Pa.

ACCOMPANYING LABELING: Bottle labels reading in part "How-B-Comp with C Vitamin Mineral Supplement * * * Recommended Adult Dose: One or two capsules daily * * * Each Capsule Contains: * * * Folic Acid * * * 0.25 mg. * * * Distributed by Howard Drug Supply Co., Inc., Peabody, Mass."

RESULTS OF INVESTIGATION: The article had been shipped as above in bulk and had been repacked into bottles by the dealer, and to which bottles, the above accompanying labeling was to be affixed in the normal course of the dealer's business operations.

LIBELED: 1-23-64, Dist. Mass.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with regulations.

DISPOSITION: 10-5-64. Default—destruction.

29898. Vitamin and mineral tablets. (F.D.C. No. 50217. S. No. 56-981 A.)

QUANTITY: 435 cases of 24 ctns., each containing 728 mineral tablets and 364 vitamin tablets, at Kansas City, Mo.

SHIPPED: Between 3-14-63 and 3-29-63, from Elgin, Ill., and Beverly Hills, Calif.

ACCOMPANYING LABELING: Analysis showed that the article contained between approximately 75 to 78 percent of the declared amount of vitamin C.

LIBELED: 6-2-64, W. Dist. Mo.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statement "2 Vitamin Tablets and 4 Mineral Tablets Daily Will Supply—Vitamin C—60 MG." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 7-20-64. Default—destruction.

29899. Vitamin drops. (F.D.C. No. 50122. S. No. 12-735 A.)

QUANTITY: 364 60-cc. btls. at Avon, Mass.

SHIPPED: 10-15-62, from New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 44 percent of the declared amount of thiamine.

LIBELED: 5-14-64, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, thiamine, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each 0.6 cc. (approx. 20 drops) provides * * * Thiamine (B₁) 1 mg." was false and misleading.

DISPOSITION: 10-5-64. Default—destruction.

29900. Vitamin tablets. (F.D.C. No. 50117. S. No. 74-603 A.)

QUANTITY: 13½ cases, each containing 36 50-tablet btls., at New Orleans, La.

SHIPPED: 9-21-62, from St. Louis, Mo.

LIBELED: 5-13-64, E. Dist. La.

CHARGE: 403(a)—while held for sale, the label of the article stated that the requirement for niacinamide had not been established, which statement was false and misleading, since the minimum daily requirement for niacinamide had been established; and 403(j)—the article purported to be and was represented as a food for special dietary use, and its label failed to bear such information concerning its dietary properties as the Secretary has determined to be and by regulations prescribed as, necessary in order fully to inform purchaser as to its value for such use, since its label failed to bear as prescribed by regulations a statement of the proportion of the minimum daily requirement for niacinamide supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: On or about 7-28-64. Default—destruction.

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salame provolone	29858	Oats	29817, 29819
Cherries, red, sour, pitted,		Oleomargarine	29894, 29895
canned	29882	Oysters, frozen, canned	29876
Chickpeas. <i>See</i> Garbanzo beans.		Pancake mix	29816
Coffee, green	29804	Peaches, canned	29879-29881
Corn, canned	29891, 29892	dried	29885
Cruller mix	29848	Peas, black-eyed, dried	29816
Dairy products	29814, 29851-29858	dried	29890
Dates, pitted	29883	Perch fillets, frozen	29872
Dog food, canned	29869	Pesticide chemical violations	29822, 29841, 29866, 29867, 29886
Drinks, fruit-flavored	29803	Pinto beans, dried	29816
Egg(s), dried	29859	Pollock fillets, breaded	29873
frozen	29860-29864	Popcorn, unpopped	29844, 29845
whites, frozen	29865	Pregnancy Formula capsules	29896
Feeds and grains	29866-29869	Provolette cheese	29858
Fish and shellfish	29870-29878		

¹ (29801, 29821) Injunction issued.

	N.J. No.		N.J. No.
Provolone cheese-----	29858	Tokay wine-----	29806
Rice -----	29845	Tomato paste, canned-----	29858
Romano cheese-----	29857	Tunafish, canned-----	29874, 29875
grated-----	29858	Vegetables. <i>See</i> Fruits and veg-	
Rye, flaked-----	29843	etables.	
Safflower seed-----	29868	Vermicelli -----	29816
Salame provolone cheese-----	29858	Vitamin, mineral, and other prod-	
Sauerkraut -----	29893	ucts of special dietary signifi-	
Sesame seeds-----	29885	cance -----	29896-29900
Shellfish. <i>See</i> Fish and shellfish.		Wheat ----- ¹	29821-29841
Shredded wheat-----	29850	and barley mixture-----	29829
Shrimp, canned-----	29877	flaked -----	29843
frozen -----	29878	shredded -----	29850
Tea -----	29805	Wine, Tokay-----	29806
Therapeutic Vitamin capsules --	29896		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co., Inc.:		Cloverland Dairy:	
oleomargarine -----	29895	butter -----	29852
Albina Dock Co.:		Coit, N. B.:	
dried peas-----	29890	wheat and barley----- ¹	29821
American Storage & Warehouse,		Collier Industries:	
Inc.:		oleomargarine -----	29894
rice and unpopped popcorn---	29845	Cornwall, R. M.:	
Anthony Cooperative:		flour mixes-----	29820
wheat -----	29826	Cornwall Warehouse Co. <i>See</i>	
Armour & Co. <i>See</i> Fort Worth		Cornwall, R. M.	
Poultry & Egg Co.		Corwin, Tom, Canning Co.:	
Armour Creameries:		canned corn-----	29891, 29892
butter -----	29855	Covington Bros. & Co.:	
Armourdale Equity Elevator:		cake mix and flour-----	29847
wheat -----	29822	D & D Foods, Inc.:	
Bastasch, F. J.:		canned peaches-----	29879
various bakery products-----	29808	Delight Certified Egg Farms,	
Blackinton & Son Canning Co.:		Inc.:	
canned, red, sour, pitted cher-		frozen eggs-----	29863
ries -----	29882	Delight Egg Farms, Inc.:	
Blain, J. L.:		frozen eggs-----	29861, 29863
flour mixes-----	29820	Englevale Farmers Elevator Co.:	
Boat. <i>See</i> Ethelena.		wheat and barley----- ¹	29821
Bryce, F. W., Inc.:		Ethelena (boat):	
breaded pollock fillets-----	29873	frozen perch fillets-----	29872
Camping, John:		Farmers Cooperative Grain As-	
bread sticks-----	29807	sociation:	
Carter Grocery Co.:		wheat -----	29832
flour and oats-----	29819	Farmers Cooperative Grain Co.:	
Centennial Mills, Inc.:		wheat and barley mixture----	29829
wheat -----	29838	Farmers Creamery Co.:	
		butter -----	29851

¹ (29801, 29821) Injunction issued.

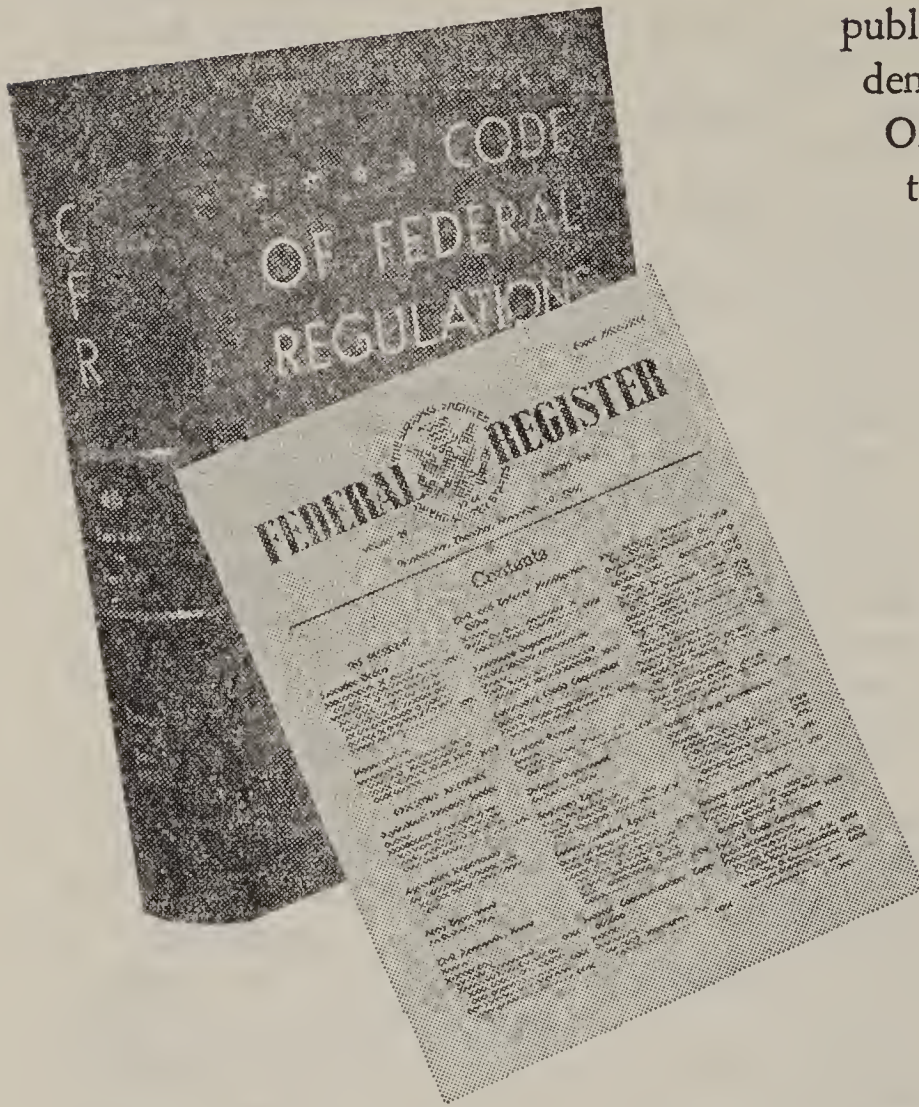
	N.J. No.		N.J. No.
Farmers Elevator Co. of Four Buttes:		Jerauld County Farmers Union:	
wheat -----	29836	wheat -----	29835
Farmers Elevator Co. of Linton:		Johnson, N. L., Grain Co.:	
wheat -----	29823	wheat -----	29830
Ford Laboratories, Inc.:		Kaplan Rice Mill, Inc.:	
vitamin and mineral capsules--	29896	brewers rice grits-----	29849
Forreston Swiss Cheese Co.:		Ken L. Products Div. <i>See</i>	
romano cheese-----	29857	Quaker Oats Co.	
Fort Worth Poultry & Egg Co.:		Klein Bros., Inc.:	
oleomargarine -----	29894, 29895	garbanzo beans-----	29888
Foy, Clyde L., Co.:		Lambert's Point Docks, Inc.:	
dried beans-----	29889	green coffee-----	29804
Gallup Sales Co.:		Ledyard Farmers Creamery & Locker Co.:	
Tokay wine-----	29806	butter -----	29855
Gardena Grain Co.:		Lewis, Alfred M., Inc.:	
wheat -----	29839	flour -----	29813
General Mills, Inc.:		Los Angeles Harbor Grain Terminal:	
wheat -----	29828	safflower seed-----	29868
Gold Crest Canning Co.:		Luxury Bread Bakery. <i>See</i>	
canned peaches-----	29880, 29881	Hudson House, Inc.	
Grangeville Creamery:		MFA Producers Exchange No. 85:	
butter -----	29856	wheat -----	29831
Gray Drug Stores, Inc.:		Maier Brewing Co.:	
vitamin and mineral capsules--	29896	beer ----- ¹	29801
Green, Cecil:		Marketing Association of America:	
alfalfa hay-----	29866	butter -----	29852
Head-Miller, Inc.:		May Grocery Co.:	
Hand-Cuts and cruller mix----	29848	flour and nonfat dry milk----	29814
Henningsen Foods, Inc.:		Mid West Producers Creameries, Inc.:	
dried eggs-----	29859	butter -----	29854
Herndon Equity Cooperative Association:		Ming Tea Co., Div. of Heublein, Inc.:	
wheat -----	29834	tea -----	29805
Heublein, Inc. <i>See</i> Ming Tea Co.		Montana Elevator Co.:	
Honl Manufacturing Co.:		wheat -----	29827
yellow cake mix-----	29846	Montana Flour Mills Co.:	
Houston Terminal Warehouse & Cold Storage Co.:		bran, flaked wheat, and flaked rye -----	29843
meat binder and unpopped popcorn -----	29844	Mutual Citrus Products Co.:	
Howard Drug Supply Co., Inc.:		fruit-flavored drinks-----	29803
vitamin and mineral capsules--	29897	National Biscuit Co., Special Products Div.:	
Hudson House, Inc.:		shredded wheat-----	29850
various bakery products-----	29808	National Tea Packing Co.:	
Indiran, Inc.:		tea -----	29805
pitted dates-----	29883		
Irvine Bean & Grain Growers Association:			
garbanzo beans-----	29887		

¹ (29801, 29821) Injunction issued.

	N.J. No.		N.J. No.
Newcomb Baking Co.:		Southern Farms:	
bread sticks-----	29807	frozen eggs-----	29860
Newcomb's Bakery:		Special Products Div. See Na-	
bread sticks-----	29807	tional Biscuit Co.	
New Town Grain Co.:		Strehlow, Chester:	
wheat -----	29824	romano cheese-----	29857
Ocean Products, Inc.:		Suncrest Poultry Farms, Inc.:	
frozen shrimp-----	29878	frozen eggs -----	29862
Otto Bros.:		Sweeney, J. D.:	
wheat -----	29833	flour -----	29811
Pillsbury Co.:		Tatum, C. E.:	
wheat -----	29841	flour -----	29811
Producers Dairy Marketing As-		Taylor, J. C., Creamery, Inc.:	
sociation:		butter -----	29853
butter -----	29854	Thomas, J. R., Produce Co.:	
Quaker Oats Co., Ken L. Prod-		fresh cabbage-----	29886
ucts Div.:		Thomson Wholesale Grocery Co.,	
canned dog food-----	29869	Inc.:	
Russell, J. O.:		flour, dried black-eyed peas,	
frozen eggs-----	29860	vermicelli, dried pinto beans,	
St. Francis Mercantile Equity		pancake mix, and cake mix--	29816
Exchange:		Tiedemann & McMorran, Inc.:	
wheat -----	29840	oleomargarine -----	29894
Schreiber, L. D., & Co., Inc.:		Tip-Top Bakery:	
butter -----	29852	flour -----	29818
Scott, Robert:		Top Quality Egg Farm:	
wheat and barley----- ¹	29821	frozen eggs-----	29864
Sedan Seed House, Inc.:		Trauth, Louis:	
wheat -----	29837	butter -----	29853
Seymour Foods, Inc.:		Trieselmann, Walter:	
frozen egg whites-----	29865	beer ----- ¹	29801
Seymour Foods of Georgia, Inc.:		Tri-State Wholesale Co.:	
frozen egg whites-----	29865	flour and oats-----	29817
Sims Elevator Co.:		Turtle Lake Cooperative Cream-	
wheat -----	29825	ery Association, Inc.:	
Sklar, J., & Co., Inc.:		flour -----	29815
dried apricots, dried peaches,		Union Gin Co., Inc.:	
and sesame seeds-----	29885	alfalfa hay-----	29867
Smith, F. E.:		Van Holten, J. G., & Son, Inc.:	
frozen eggs-----	29864	sauerkraut -----	29893
Sociedade Peninsular de Impor-		Waples-Platter Co.:	
tacao & Exportacao, Lda.:		flour -----	29811
anchovies -----	29870	Yosemite Farm:	
		dried apricots-----	29884

¹ (29801, 29821) Injunction issued.

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

29901-30000

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated upon pleas of guilty; and (3) an injunction proceeding involving the entry of a consent decree of permanent injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., August 12, 1965.

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SEP 23 1965

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 29901-30000

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(c), the article was an imitation of another food, and its label failed to bear in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (2), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and its label failed to bear the name of the food specified in the definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS***BAKERY PRODUCTS**

29901. Various bakery products. (Inj. No. 457.)

COMPLAINT FOR INJUNCTION FILED: 4-5-63, E. Dist. Tex., against Burl's Pie Shop, a partnership, Denison, Tex., J. Zenn Taylor, Bonnie Taylor, Jesse L. Coker, and Ivybelle Coker, partners, and Frank L. Nix, plant manager.

NATURE OF BUSINESS: The defendants were engaged in operating at Denison, Tex., a shop in which pan pies, fried pies, donuts, and cakes were prepared and packed.

CHARGE: The complaint alleged that the defendants were introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, in violation of the law, the above foods which were adulterated within the meaning of 402(a)(3) and 402(a)(4); that such foods consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs in the foods; that the foods had been and were being prepared and packed at the defendants' shop at Denison, Tex., under insanitary conditions whereby they may have become contaminated with filth, and whereby they may have become injurious to health as a result of the careless use of a rodenticide, thereby rendering the foods adulterated within the meaning of 402(a)(3) and 402(a)(4); that the insanitary conditions of the defendants' shop at Denison, Tex., resulted from and consisted of the following: widespread rodent infestation throughout the storage and manufacturing areas; roach infestation; innumerable excreta pellets on the floor, on the cooling and storage racks, and on table tops and shelves; dead and decomposing mice in the shop; extensive insect, rodent, and other filth near the dough mixer in the manufacturing area; as well as several insanitary habits of employees which included failure to wash and sanitize hands before starting work and after work-breaks, failure to clean working tables, sitting and placing unclean objects on the tables, and using materials which had been contaminated in some instances by being dropped on the floor; many holes and spaces in the walls and at doorways which permit rodent entry; and open and unprotected paper cups containing the highly dangerous rodenticide known as "1080" scattered throughout raw material storage areas, some of which were found approximately 6 to 8 inches from the food and some of which had been overturned.

The complaint alleged also that the defendants had been made aware of the insanitary conditions which existed in the shop by inspections by Federal Food and Drug Inspectors; that during inspections on 1-17-63 and 1-31/2-1-63, Food and Drug Inspectors pointed out to Frank L. Nix and Mrs. J. Zenn Taylor specific insanitary conditions which existed at that time; that very few improvements were made in the 2-week period between these inspections; and that prior to the above inspections, previous inspections on 1-30-62 and 8-8-62, revealed similar insanitary conditions; and that despite the warnings which were conveyed to the defendants through such inspections, the defendants failed to correct in any material way the insanitary conditions at the shop and continued to introduce and cause to be introduced and deliver and cause to be delivered for introduction into interstate commerce, bakery goods which were adulterated as above.

*See also No. 29957.

DISPOSITION: On 4-8-63, a temporary restraining order was filed, and on 4-23-63, a consent decree of preliminary injunction was entered. On 6-25-63, a consent decree of permanent injunction was entered which perpetually restrained and enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction, into interstate commerce, in violation of the law, pan pies, fried pies, donuts, and cakes, and any similar article of food, which had been or was prepared and packed at the defendants' shop in Denison, Tex., unless and until:

(a) the shop was thoroughly cleaned, renovated, and rendered suitable for use in connection with the preparation and packing of bakery goods for human consumption and any similar article of food, namely, unless and until all filth was removed from the shop; all rodent, roach, and other insect infestation in and about the shop was eliminated; the means of ingress and egress of the shop by rodents, roaches, and other insects were closed; and any similar insanitary conditions which may result in bakery goods for human consumption and any similar article of food being contaminated with filth while being prepared and packed at the shop were eliminated;

(b) provisions were taken which would preclude careless use of rodenticides and which would include that all containers of liquid rodenticides and any other bait stations used in the shop for the dispensing of any rodenticide either were firmly attached to the building at a reasonable distance from foods or were constructed so as to prevent overturning of the rodenticide or were equipped with a leak-proof receptacle or with a means of blotting any rodenticide which might be spilled; and any other conditions which might result in bakery goods for human consumption being prepared and packed under insanitary conditions whereby they might have been rendered injurious to health were removed;

(c) adequate cleaning and sanitizing procedures were instituted which included the following:

(i) washing and sanitizing all equipment used in the preparation and baking or frying of bakery goods before each use;

(ii) employees required to wash and sanitize their hands before beginning work and after work-breaks;

(iii) containers which were used to store ingredients for the bakery goods were clean and tightly covered and, if necessary, kept under adequate refrigeration; and

(iv) floors and other surrounding areas were kept clean and free from trash; and

(d) all of the bakery goods, which were on hand at the shop at the time that the shop was cleaned, renovated, and rendered suitable for use in connection with the preparation and baking of bakery goods for human consumption, were destroyed or otherwise brought into compliance with the law under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision paid by the defendants.

The consent decree of permanent injunction further perpetually restrained and enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, pan pies, fried pies, donuts, and cakes and any similar article of food hereafter prepared and packed at the shop, which food was adulterated within the meaning of 402(a)(3) in that

it consisted in part of a filthy substance and within the meaning of 402(a)(4) in that it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth and whereby it may have been rendered injurious to health.

FLOUR

29902. Flour. (F.D.C. No. 47492. S. Nos. 55-502/03 T.)

QUANTITY: 100 100-lb. bags at Santurce, P.R.

SHIPPED: Between 10-17-61 and 12-12-61, from Wichita, Kans.

LIBELED: 6-5-62, Dist. P.R.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 6-21-62. Consent—claimed by Antonio Jimenez, Inc., San Juan, P.R., and denatured for use as animal feed.

29903. Flour. (F.D.C. No. 49899. S. Nos. 12-802 A, 12-805 A.)

QUANTITY: 64 100-lb. bags of Spring Wheat flour and 28 100-lb. bags of First Patent flour, at Providence, R.I., in possession of Crugnale's Bakery, Inc.

SHIPPED: 11-25-63 (64-bag lot) and 12-18-63 (28-bag lot), from Grand Forks, N. Dak.

LIBELED: 3-10-64, Dist. R.I.

CHARGE: 402(a)(3)—contained rodent excreta pellets (First Patent flour) and rodent hairs (Spring Wheat flour); and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-25-64. Default—destruction.

29904. Flour. (F.D.C. No. 50416. S. No. 41-922 A.)

QUANTITY: 800 100-lb. bags, at Fort Worth, Tex.

SHIPPED: 7-9-64, from St. Louis, Mo., by Missouri, Kansas & Texas Railroad Co.

LABEL IN PART: "Hard Wheat Flour, * * * Denver, Colorado."

LIBELED: 7-29-64, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 8-31-64. Consent—claimed by More-Hardeman Salvage Co., and denatured.

29905. Flour. (F.D.C. No. 50505. S. No. 2-803 A.)

QUANTITY: 336 100-lb. bags at Fort Valley, Ga.

SHIPPED: 6-12-64 and 6-30-64, from Shawnee, Okla.

RESULTS OF INVESTIGATION: Examination showed that the article was being held under insanitary conditions by Happyvale Flour Mills, Fort Valley, Ga.

LIBELED: 8-13-64, M. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine and excreta and live insects while held for sale.

DISPOSITION: 9-28-64. Default—destruction.

29906. Flour. (F.D.C. No. 50656. S. No. 6-183 A.)

QUANTITY: 93 100-lb. bags, at Charleston, W. Va., in possession of Elk Grocery Co.

SHIPPED: 4-6-64, from Louisville, Ky.

LIBELED: 10-7-64, S. Dist. W. Va.

CHARGE: 402(a) (3)—contained insect larvae, parts, webbing, and excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-30-64. Default—delivered to a Federal institution for use as animal feed.

29907. Flour. (F.D.C. No. 50575. S. Nos. 40-988/90 A.)

QUANTITY: 56 25-lb. bags, 29 50-lb. bags, and 85 bales, each containing 10 5-lb. bags, at Brenham, Tex., in possession of Brenham Wholesale Grocery Co., Inc.

SHIPPED: Between 3-3-64 and 8-6-64, from Salina, Kans., and Springfield, Ill.

LIBELED: 9-12-64, W. Dist. Tex.

CHARGE: 402(a) (3)—contained live insects and insect larvae; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-2-64. Default—destruction.

MACARONI AND NOODLE PRODUCTS

29908. Macaroni and cake mix. (F.D.C. No. 50508. S. Nos. 52-346/7 A.)

QUANTITY: 25 cases of 48 7-oz. pkgs. of macaroni, and 10 cases of 12 1-lb. 4-oz. pkgs. of cake mix, at Detroit, Mich., in possession of Merchants Tobacco & Grocery Co.

SHIPPED: 11-7-63 and 12-19-63, from Minneapolis, Minn.

LIBELED: 8-28-64, E. Dist. Mich.

CHARGE: 402(a) (3)—contained live insects and insect fragments; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-14-64. Default—destruction.

29909. Macaroni and noodle products. (F.D.C. No. 46815. S. Nos. 55-920/22 T.)

QUANTITY: 103 cases, each containing 24 6-oz. boxes and 65 cases, each containing 12 12-oz. boxes of egg pastina; 18 cases, each containing 12 12-oz. boxes of egg spaghetti; and 169 cases, each containing 12 12-oz. boxes of egg noodles, at Brooklyn, N.Y.

SHIPPED: Between 12-13-61 and 12-29-61, from Lowell, Mass., by Prince Macaroni Manufacturing Co., Inc.

LABELS IN PART: (Boxes) "Prince Egg Pastina for Baby * * * Contains 5½% Egg Solids * * * is rich in protein * * * Enriched * * * Prince Macaroni Mfg. Co. * * * Lowell, Mass."; "Prince Egg Spaghetti No. 9 * * * Contains 20% Whole Eggs * * * Prince Macaroni Mfg. Co. * * * Lowell, Mass. * * * The pure golden color of Prince Egg Spaghetti comes from the extra eggs (20% Whole Eggs)"; and "Prince New Egg Noodles with oodles of eggs! * * * Enriched * * * Ingredients * * * Defatted Wheat Germ * * * Contains 5½% Egg Solids Prince Macaroni Mfg. Co. * * * Lowell, Mass."

LIBELED: 1-10-62, E. Dist. N.Y.

CHARGE: Egg pastina, 403(a)—when shipped, the label statement "rich in protein" was false and misleading since the article was not significantly different from enriched noodle products generally, that is, standardized food; 403(g)

(2)—the article purported to be an enriched noodle product, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the food specified in such definition and standard, namely, "enriched noodle products"; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content and its label failed to bear a statement, as required by regulations, of the proportion of the minimum daily requirement for infants for vitamin B₁, vitamin B₂, niacin or niacinamide, and iron supplied by such food when consumed in a specified quantity during a period of 1 day; and the specific plant name which was the source of the "special enriched flour" in the article.

Egg spaghetti, 403(a)—when shipped, the label statements "Prince Egg Spaghetti * * * Contains 20% Whole Eggs," and "The pure golden color of Prince Egg Spaghetti comes from the extra eggs (20% Whole Eggs), were false and misleading, since the article was not significantly different from egg spaghetti generally, that is, standardized food.

Egg noodles, 403(g) (2)—when shipped, the article purported to be enriched egg noodles, a food for which a definition and standard of identity had been prescribed by regulations and its label failed to bear the name of the food specified in such definition and standard, namely, "enriched egg noodles."

DISPOSITION: Subsequent to 1-17-62, Prince Macaroni Co., Inc., Brooklyn, N.Y., claimed the articles. Thereafter, approximately 2,500 pounds of the articles were inadvertently denatured. On 4-18-63, a consent decree of condemnation was filed and the remaining quantities of the articles were destroyed since the articles had deteriorated after seizure.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

29910. Rice and Azuki beans. (F.D.C. No. 50618. S. Nos. 97-034/5 A.)

INFORMATION FILED: 11-19-64, N. Dist. Calif., against North American Food Distributing Co., a partnership, Sacramento, Calif.

ALLEGED VIOLATION: Between 10-2-62 and 1-30-64, while quantities of rice and Azuki beans were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-18-64. \$150 fine.

29911. Wheat. (F.D.C. No. 49856. S. No. 103-443 A.)

QUANTITY: 21,000 lbs. at Seattle, Wash.

SHIPPED: 3-20-64, from Charlo, Mont., by Consolidated Dairies, Inc.

LIBELED: 3-25-64, W. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-9-64. Consent—claimed by Atwood Larson Co., Portland, Oreg., and denatured.

29912. Wheat. (F.D.C. No. 50061. S. No. 71-848 A.)

QUANTITY: 92,000 lbs., at Minneapolis, Minn.

SHIPPED: 4-13-64, from Monango, N. Dak., by Farmers Cooperative Elevator Co.

LIBELED: 4-27-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-14-64. Consent—claimed by Farmers Cooperative Elevator Association and denatured.

29913. Wheat. (F.D.C. No. 50079. S. No. 57-200 A.)

QUANTITY: 105,800 lbs. at Kansas City, Kans.

SHIPPED: 4-23-64, from Elwood, Nebr., by Elwood Grain Co.

LIBELED: 5-18-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-28-64. Consent—claimed by Wolcott & Lincoln, Inc., Kansas City, Kans. Reconditioned; 7,240 lbs. denatured.

29914. Wheat. (F.D.C. No. 50232. S. No. 71-914 A.)

QUANTITY: 74,340 lbs. at Wabasha, Minn.

SHIPPED: 5-26-64, from Ashton, S. Dak., by Ashton Farmers Elevator Co.

LIBELED: 6-15-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-19-64. Consent—claimed by Ashton Farmers Elevator Co., and denatured.

29915. Wheat. (F.D.C. No. 50225. S. No. 68-167 A.)

QUANTITY: 90,600 lbs. at Minneapolis, Minn.

SHIPPED: 5-22-64, from Scranton, N. Dak., by Scranton Equity Exchange.

LIBELED: 6-9-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-22-64. Consent—claimed by Scranton Equity Exchange, Scranton, N. Dak., and denatured.

29916. Wheat. (F.D.C. No. 50082. S. No. 104-369 A.)

QUANTITY: 49,000 lbs. at Seattle, Wash.

SHIPPED: 5-18-64, from Harlowton, Mont., by Montana Flour Mills Co.

LIBELED: 6-12-64, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-26-64. Consent—claimed by Lees-Carney & Co., Portland, Oreg., and converted into animal feed.

29917. Wheat. (F.D.C. No. 50259. S. No. 70-453 A.)

QUANTITY: 125,000 lbs. at Minneapolis, Minn.

SHIPPED: 7-3-64, from Circle, Mont., by Farmers Union Elevator Co.

LIBELED: 7-23-64, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-10-64. Consent—claimed by Farmers Union Elevator Co., Circle, Mont., and denatured.

29918. Wheat. (F.D.C. No. 50506. S. No. 58-230 A.)

QUANTITY: 129,000 lbs. at Kansas City, Kans.

SHIPPED: 7-28-64, from St. Francis, Kans., by St. Francis Mercantile Equity Exchange consigned to Kansas City, Mo.

LIBELED: 8-24-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 9-9-64. Consent—claimed by St. Francis Mercantile Equity Exchange. Reconditioned; 28,250 lbs. destroyed.

29919. Wheat. (F.D.C. No. 50531. S. No. 58-048 A.)

QUANTITY: 89,980 lbs. at Kansas City, Mo.

SHIPPED: 4-15-64, from Long Island, Kans.

LIBELED: 9-24-64, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insect-damaged kernels while held for sale.

DISPOSITION: 10-12-64. Consent—claimed by Continental Grain Co. Reconditioned and segregated; 18,010 lbs. destroyed.

29920. Wheat. (F.D.C. No. 50272. S. No. 59-338 A.)

QUANTITY: 99,000 lbs. at Kansas City, Kans.

SHIPPED: 7-17-64, from St. Francis, Kans., by St. Francis Mercantile Equity Exchange, to Kansas City, Mo., and subsequently reshipped to Kansas.

LIBELED: 8-12-64, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-damaged kernels when shipped.

DISPOSITION: 10-27-64. Consent—claimed by St. Francis Mercantile Equity Exchange, St. Francis, Kans. Reconditioned and segregated; 19,150 lbs. denatured.

29921. Unpopped popcorn. (F.D.C. No. 50523. S. No. 64-917 A.)

QUANTITY: 99 50-lb. bags, at Los Angeles, Calif., in possession of Gilbert Nut Co.

SHIPPED: 6-2-64, from Tarkio, Mo.

LIBELED: 9-11-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, and insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-6-64. Default—destruction.

29922. Unpopped popcorn. (F.D.C. No. 50518. S. No. 42-484 A.)

QUANTITY: 53 cases, each containing 6 4-lb. bags, at Salt Lake City, Utah.

SHIPPED: 5-15-64, from Sioux City, Iowa, by American Pop Corn Co.

LABEL IN PART: (Bag) "Jolly Time * * * Pop Corn White Hulless—American Pop Corn Company, Sioux City, Iowa."

LIBELED: 9-8-64, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent hairs and rodent-gnawed kernels when shipped.

DISPOSITION: 11-9-64. Default—delivered to a Government institution for use as animal feed.

29923. Unpopped popcorn, coconut bonbons, candy orange slices, hominy grits, and candy cream drops. (F.D.C. No. 50685. S. Nos. 3-346/7 A, 3-349 A, 3-351/2 A, 3-355 A.)

QUANTITY: 9 cases, each containing 24 lbs. of coconut bonbons; 13 cases, each containing 30 lbs. of candy orange slices; 25 cases, each containing 24 1-lb.

8-oz. pkgs. of hominy grits; 5 cases, each containing 30 lbs. of cream drops; and 7 cases, each containing 6 ctns., each ctn. containing 25 3-oz. bags; and 7 cases, each containing 24 1-lb. bags of popcorn, at Charlotte, N.C.

SHIPPED: Between 11-6-63 and 10-1-64, from Chattanooga, Tenn., Birmingham, Ala., and Milford, Ill.

RESULTS OF INVESTIGATION: All of the articles libeled were in the possession of Petrie Wholesalers, Inc., Charlotte, N.C., except the popcorn which had been delivered by them to a local dealer. Inspection of Petrie Wholesalers, Inc., disclosed that all of the articles had been held in an insect-infested warehouse.

LIBELED: 10-26-64, W. Dist. N.C.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-24-64. Default—delivered to a charitable institution for use as animal feed.

29924. Unpopped popcorn. (F.D.C. No. 50826. S. Nos. 4-957/8 A.)

QUANTITY: 100 bales, each containing 12 2-lb. bags, and 14 bales, each containing 24 1-lb. bags, at Lincolnton, N.C., in possession of Dixie Grocery Co.

SHIPPED: 8-25-64, from Greenville, S.C.

LIBELED: 11-16-64, W. Dist. N.C.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-4-65. Default—delivered to a charitable institution for use as animal feed.

CONFECTIONERY AND SIRUP

CONFECTIONERY*

29925. Lik-M-Aid candy and Pixy Stix candy. (F.D.C. No. 47664. S. Nos. 21-758/9 T, 22-308/9 T.)

QUANTITY: 104 cases, each containing 24 ctns., each ctn. containing 32 1-oz. packets of Lik-M-Aid candy; and 86 cases, each containing 24 display ctns., each ctn. containing 32 cellophane 22½-gram pkgs. of Pixy Stix candy, at Salt Lake City, Utah.

SHIPPED: Between 2-2-62 and 6-11-62, from St. Louis, Mo., by Sunline, Inc.

LABEL IN PART: (Packet-each section) "Lik-M-Aid Candy * * * Sunline, Inc., St. Louis, Mo. & Salt Lake City, Utah * * * Contains: Dextrose, Citric Acid, Artificial Color & Flavor"; and (case) "Pixy Stix 5 Flavors Cello Wrapped Candy Filled Fun Straws Sunline, Inc., St. Louis, Mo. Salt Lake City, Utah," and (ctn.) "Pixy Stix Candy Filled Fun Straws * * * Made and Guaranteed by Fruzola Co., St. Louis Mo. Salt Lake City, Utah * * * Ingredients: Dextrose, Citric Acid, Artificial Flavors and Colors."

RESULTS OF INVESTIGATION: Investigation showed that each Lik-M-Aid candy packet was perforated into five sections, each printed in a different color, each similarly labeled as above and each containing approximately 1/5th of an ounce of a powdered confection. Each Pixy Stix cellophane package

*See also No. 29923.

contained five items resembling soda straws and each containing approximately $\frac{1}{6}$ th of an ounce of powdered confection.

The quantity of contents statements were not shown on the label of the Lik-M-Aid candy; and the name and address of the manufacturer, quantity of contents and ingredients statements and declaration of artificial flavors and colors were stamped in blurred black ink on the cellophane package of Pixy Stix candy and was wholly or in part illegible.

LIBELED: 6-22-62, Dist. Utah; libel amended on or about 8-1-63.

CHARGE: Pixy Stix candy, 403(a)—when shipped, the statement on the article's carton label, namely, "Made * * * by Fruzola Co." was false or misleading as applied to the article which was not made by Fruzola Co., but was made by Sunline, Inc.; 403(e) (2)—the labeling of the article failed to bear an accurate statement of the quantity of contents in term of weight, measure, or numerical count, in that a number of the packages bore a statement of the quantity of contents in terms of metric weight and not in terms of avoirdupois ounce as provided by regulation; 403(f)—the information required to appear on the label under 403(e) (1) and (2), 403(i) (2), and 403(k), namely, the name and place of business of the manufacturer, an accurate statement of the quantity of contents, the common or usual name of each ingredient, and the declaration of artificial flavors and colors, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) and in such terms as to render such information likely to be read and understood by the ordinary individual under customary conditions of purchase and use, in that such required information was on some packages blurred and illegible and in that the information required by 403(e) (2) appeared on some packages in terms of metric weight rather than ounce avoirdupois as provided by regulation.

Lik-M-Aid candy, 403(e) (2)—when shipped, the article failed to bear a label containing a statement of the quantity of contents.

DISPOSITION: On 8-13-62, upon petition of the claimant, Sunline, Inc., of St. Louis, Mo., the case was transferred to the Eastern District of Illinois. On 5-22-63, the claimant filed an answer, denied that the articles were misbranded, denied that Lik-M-Aid candy as packaged was required to bear a statement of the weight of the contents and alleged that the packages of Lik-M-Aid candy were specifically exempted from stating the weight of the packages or the number of packages by regulation (21 CFR 1.8(m)).

Thereafter, the Government moved to amend the libel and served interrogatories upon the claimant. On 8-16-63, Sunline, Inc., served an answer to the Government's amended libel. On 8-16-63, the claimant also served objections to some of the Government's interrogatories and answers to some of the Government's interrogatories. On 10-30-63, the Government filed a motion to compel further and more complete answers to written interrogatories.

On 6-5-64, upon consideration of the defendant's objections and the Government's motion to compel further and more complete answers to written interrogatories, the court rendered the following opinion:

JUERGENS, District Judge: "For consideration is defendant's objections to certain interrogatories and libelant's motion to compel further and more complete answers to written interrogatories.

"Defendant objects to interrogatories numbered 1, 2, 9, 10, 11, 49, 50, 51, 52, 53, 54 and 55 for the reason that they are too general and so vague that they cannot be intelligently answered.

"Defendant objects to interrogatory numbered 56 because it seeks the work product of defendant's attorneys and confidential and privileged information.

"Interrogatory numbered 1 reads as follows :

'1. Does claimant admit that Exhibit A is a true and accurate copy of Lik-M-Aid Candy packages?'

"Interrogatory numbered 2 seeks the same information concerning Exhibit B and refers to Lik-M-Aid cartons.

"Interrogatories numbered 9, 10 and 11 are as follows :

'9. Does claimant admit that the only price marked on either the Lik-M-Aid package or carton is 5¢?

'10. Does claimant admit that the only statement of contents on the carton is 32 count?

'11. If the answers to the preceding two interrogatories are any but unqualified affirmative responses, state in full what claimant contends the true facts to be and the name and address of the person having personal knowledge as to the truth of such responses.'

"Interrogatories numbered 49 through 55 ask :

'49. Does claimant admit that the only declaration of manufacturer or distributor appearing on the Pixy Stix carton is :

FRUZOLA CO., St. Louis, Mo., Salt Lake City, Utah In Canada by
O-PEE-CHEE CO., LTD., London, Ont.

'50. Does claimant admit that there is no net weight of contents declaration on the carton of Pixy Stix?

'51. If the answers to the preceding two interrogatories are any but unqualified affirmative responses, state in full what the claimant contends the true facts to be and the name and address of the person having personal knowledge as to the truth of such responses.

'52. Does claimant admit that the article Pixy Stix is in the custody of the United States Marshal?

'53. Does claimant admit that the article Pixy Stix was in the custody of the claimant at the time it was seized?

'54. Does claimant admit that the article Pixy Stix is located within the State of Utah in the jurisdiction of the District Court for the District of Utah?

'55. If the answers to the preceding three interrogatories are any but unqualified affirmative responses, state in full what the claimant alleges the true facts to be.'

"Interrogatory numbered 56 asks the name and address of all witnesses claimant intends to call at the trial. Such a request is improper. The libelant may obtain the names and addresses of all persons having knowledge of the facts surrounding the circumstances involved, but to ask the opposing party to identify what witnesses it will call or will not call is not proper and the objection will be sustained.

"In support of the validity and propriety of the interrogatories, libelant sets out in its brief what purports to be an explanation of the information sought by the various interrogatories.

"Together with the interrogatories libelant presents several exhibits. Interrogatory numbered 9 asks an admission that the only price marked on Lik-M-Aid packages or cartons is 5¢. The exhibits show to the contrary.

"Interrogatories 1, 2, 9, 10, 11, and 49 through 55 fail to identify the packages or cartons referred to therein with sufficient completeness and accuracy to permit unqualified answers and are accordingly so deficient that answers should not be required.

"While courts should be liberal in permitting discovery and should follow a liberal policy in discovery procedures, yet interrogatories should be couched in such language that the party answering them is not required to go into elaborate detail to properly restrict its answer so as to provide the necessary information sought without jeopardizing its position by a short brief answer. Here it may well be that the interrogatories might be answered by defendant supplying a number of exceptions to which the answer would not apply. This, however, it should not be required to do. By presenting proper interrogatories the inquirer can obtain forthright direct answers without the necessity of detailed explanation.

"The information sought by the libelant may be proper meat for interrogatories and should be answered if interrogatories are worded in the proper form. Here, however, the interrogatories have not been so worded and the objections will be sustained.

"Libelant seeks more complete answer to interrogatories numbered 5, 8 and 19.

"These interrogatories read :

'5. If any answer to the preceding four interrogatories is any but an unqualified affirmative response, state in detail what claimant contends the true facts to be.

'8. If the answers to the preceding two interrogatories are any but unqualified affirmative responses, state in full what claimant contends the true facts to be and the name and address of the person having personal knowledge as to the truth of such responses.

'19. If the answer to the preceding interrogatory is any but an unqualified affirmative response, state in detail what claimant alleges the true facts to be.'

"In answering interrogatory numbered 5 defendant states that Exhibits C and D are not a true and accurate copy of the carton or package of Lik-M-Aid used prior to the designed carton under seizure.

"In answering interrogatory numbered 8 defendant refers back to its answer to interrogatory numbered 7, which is :

'Yes, however, the carton is designed simply as a display carton and not to be sold as a unit to the consumer.'

"In answering interrogatory numbered 19 defendant states :

'Strips are sold with three or four envelopes.'

"In its brief libelant states that the claimant should identify the packages and cartons as to the period of time they were in use as requested by its interrogatory; that claimant should state as called for in the interrogatories the name and address of the person having personal knowledge of facts; and that by interrogatory numbered 19 it seeks to ascertain the quantity of contents in terms of weight.

"If libelant desires to have the information it seeks as explained in its brief concerning interrogatories numbered 5, 8 and 19, it could have asked interrogatories which would require the specified information rather than in the manner in which it did, wherein it asked that the defendant state the true facts in detail. In answering such an interrogatory a great burden is placed upon the answering party which could so easily be avoided if the specific information desired had been set out.

"If the libelant seeks additional information as shown in its brief concerning interrogatories numbered 5, 8 and 19, it could obtain such information by submitting interrogatories asking specifically the information it apparently seeks. Its motion for more complete answers to interrogatories numbered 5, 8 and 19 will be denied."

On 12-21-64, a consent decree of condemnation was filed which permitted the articles to be released under bond to the claimant for shipment or delivery at its own expense to an organization agreeable to the Food and Drug Administration for charitable distribution of the article and not for resale, with the understanding that the organization receiving the goods be informed that the goods were not labeled with the information required by the Federal Food, Drug, and Cosmetic Act.

29926. Stuckey's Crunch (candy). (F.D.C. No. 49917. S. No. 704 A.)

QUANTITY: 198 cans at Apopka, Fla.

SHIPPED: 1-7-64, from Eastman, Ga., by Stuckey's, Inc.

LABEL IN PART: (Can) "Stuckey's Old Fashioned nut-butter crunch * * * 12 Ounces Net * * * Ingredients: * * * Stuckey's Eastman, Georgia."

LIBELED: 3-16-64, M. Dist. Fla.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-10-64. Default—destruction.

29927. Candy. (F.D.C. No. 50736. S. No. 93-839 A.)

QUANTITY: 117 3-lb. 5-oz. tins at Shrewsberry, Mo.

SHIPPED: 10-7-64, from Moline, Ill., by Fresh Pak Candy Co.

LABEL IN PART: (Tin) "Presidents of The United States of America."

LIBELED: 11-16-64, E. Dist. Mo.

CHARGE: 403(e)—when shipped, the label failed to bear (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; 403(i)—the label failed to bear (1) the common or usual name of the food and (2) the common or usual name of each ingredient.

DISPOSITION: 12-16-64. Default—delivered to charitable institutions.

29928. Bridge mix candy. (F.D.C. No. 48837. S. No. 58-896 V.)

QUANTITY: 29 cases, each containing 24 8-oz. pkgs., at Westville, N.J.

SHIPPED: 2-7-63, from Bethlehem, Pa., by Just Born, Inc.

LABEL IN PART: (Pkg.) "Letty Lane Bridge Mix * * * Letty Lane Co., Inc., Westville, N.J."

RESULTS OF INVESTIGATION: Examination showed the product to be dark brown, variously shaped pieces of candy contained in clear cellophane bags, on which the manufacturer's name and address, quantity of contents statement, and statement of ingredients were printed in a dark brown colored ink which did not contrast with the dark brown colored candy in the background.

LIBELED: 4-17-63, Dist. N.J.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e) (1) and (2), 403(i) (2), and 403(k), namely, the name and address of the manufacturer, packer, or distributor, an accurate statement of the quantity of the contents, the statement of ingredients, and the declaration of artificial colors and flavors, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: On 6-21-63, Letty Lane Co., Inc., Westville, N.J., having claimed the article, a consent decree was entered which permitted the release of the article under bond for repackaging and relabeling. However, thereafter the article was damaged considerably, and on 9-18-63, a consent decree of condemnation and destruction was entered. On 9-24-63, the article was destroyed.

SIRUP

29929. Ease Instant Sirup. (F.D.C. No. 50002. S. No. 56-409 A.)

QUANTITY: 145 cases, each containing 12 11-oz. jars, at Wichita, Kans.

SHIPPED: Between 1-17-64 and 2-13-64, from Peoria, Ill., by Carnation Co.

LABEL IN PART: (Jar) "Ease Instant Syrup Just Add Hot Water Makes 1 Pt. 8 Oz. Carnation Company Los Angeles, Calif. * * * Ingredients: Sugar, lactose, carboxymethylcellulose, artificial flavors, benzoic acid 0.28%. Contains 0.2% sodium cyclamate and 0.14% sodium saccharin non-nutritive artificial sweeteners which should be used only by persons who must restrict their intake of ordinary sweets and salt. Reconstituted syrup contains 0.1% benzoic acid."

RESULTS OF INVESTIGATION: Investigation indicated that the article contained natural sweeteners and artificial sweeteners. The article, by its name "Instant Syrup" by the label vignette showing the sirup being poured on pancakes, and by other label statements, was represented to be, after dilution in accordance with directions, ordinary table sirup.

LIBELED: 4-29-64, Dist. Kans.

CHARGE: 402(b)(1)—when shipped, a valuable constituent, namely, a nutritive sweetener, had been in part omitted; and 402(b)(2)—an article sweetened in part by nonnutritive, artificial sweeteners, namely, sodium cyclamate and sodium saccharin had been substituted wholly or in part for an article which the food purported to be, whose sweetness is derived from natural sweeteners; 403(a)—the name of the article "Instant Syrup" and the label statement "Contains 0.2% sodium cyclamate and 0.14% sodium saccharin non-nutritive artificial sweeteners which should be used only by persons who must restrict their intake of ordinary sweets and salt," were false and misleading as applied to a product containing the ordinary sweeteners, sugar and lactose and, in addition, the artificial sweeteners sodium cyclamate and sodium saccharin; 403(j)—the article purported to be and was represented as a food for special dietary use to regulate the intake of sodium, and its label failed to bear such information concerning its dietary properties, as prescribed by regulations, as necessary in order fully to inform purchasers as to its value for such use, since its label failed to bear a statement of the number of milligrams of sodium in 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: 8-26-64. Default—destruction.

DAIRY PRODUCTS

BUTTER

29930. Butter. (F.D.C. No. 50190. S. Nos. 67-602/3 A.)

QUANTITY: 30 68-lb. boxes at Dubuque, Iowa.

SHIPPED: 7-27-64, from Zumbrota, Minn., by Mazeppa Co-operative Dairy Association.

LABEL IN PART: (Box) "Fancy Butter Packed for National Butter Dubuque, Iowa."

LIBELED: 8-18-64, N. Dist. Iowa; libel amended 8-31-64.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80% by weight of milk fat had been substituted for butter, a product which should contain not less than 80% of milk fat.

DISPOSITION: 9-14-64. Consent—claimed by Mazeppa Co-operative Creamery Association of Mazeppa, Minn., and reworked.

29931. Butter. (F.D.C. No. 50979. S. No. 27-094 A.)

QUANTITY: 910 cases, each containing 32 1-lb. prints, at Chicago, Ill.

SHIPPED: 3-15-64, from Fond du Lac, Wis.

RESULTS OF INVESTIGATION: The article had been shipped as above in bulk lots to Chicago, Ill., where it had been cut and repacked. On 12-7-64, the printed butter was consigned to a dealer in Hopkins, Minn. While in transit to Hopkins, Minn., the truck containing the article was involved in a fire and the butter was thereupon returned to Chicago, Ill.

Examination showed that all cases were charred and approximately half of them were burned through so as to expose the butter, and that the butter was discolored, had a smoky odor, and contained pieces of the charred paper wrapper.

LIBELED: 1-18-65, N. Dist. Ill.

CHARGE: 402(a) (3)—while held for sale, the article was unfit for food by reason of being discolored, having a smoky odor, and containing pieces of charred paper.

DISPOSITION: 1-25-65. Consent—claimed by Berkshire Foods, Inc., Chicago, Ill. All of the article was found to have a pungent taste and was denatured for use in the manufacture of soap and animal feed.

MISCELLANEOUS DAIRY PRODUCT

29932. Dried whey. (F.D.C. No. 50660. S. No. 5-268 A.)

QUANTITY: 75 100-lb. bags, at Charlotte, N.C., in possession of Curt L. Rogers.

SHIPPED: 3-5-64, from Murfreesboro, Tenn.

LIBELED: 10-9-64, W. Dist. N.C.

CHARGE: 402(a) (3)—contained insects and insect parts; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-10-64. Default—delivered to a charitable institution for use as animal feed.

EGGS

29933. Frozen eggs. (F.D.C. No. 49669. S. Nos. 52-044/5 X.)

QUANTITY: 1,564 30-lb. cans at Seattle, Wash.

SHIPPED: 8-14-63 and 9-11-63, from Burbank, Calif., by Burbank Refrigerating Co., and from Lindsay, Calif., by Marlow Egg Farm.

LIBELED: 1-13-64, W. Dist. Wash.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-14-64. Consent—claimed by Commercial Creamery Co., Spokane, Wash. Segregated; 203 cans destroyed.

29934. Frozen eggs. (F.D.C. No. 49625. S. No. 41-989 X.)

QUANTITY: 294 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 11-7-63, from New Holland, Pa., by Weavers Quality Eggs, Inc.

LABEL IN PART: (Can) "Weaver's Quality Eggs, Inc. New Holland, Penna. Frozen Whole Eggs."

LIBELED: 12-3-63, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 4-27-64. Consent—claimed by Weaver's Quality Eggs, Inc., Holland, Pa. Segregated; 109 cans denatured.

29935. Frozen eggs. (F.D.C. No. 50155. S. No. 80-529 A.)

QUANTITY: 603 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 4-24-64, from Phoenix, Ariz., by Earl K. Riley Co., Chicago, Ill.

LABEL IN PART: (Can) "Frozen Whole Eggs 30# * * * Phoenix, Arizona."

LIBELED: 6-4-64, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 9-3-64. Consent—claimed by Earl K. Riley Co. Segregated; 63 cans denatured.

29936. Frozen eggs (2 seizure actions). (F.D.C. Nos. 50604; 50653. S. Nos. 7-324 A, 9-893/4 A; 113-101 A.)

QUANTITY: 205 30-lb. cans at Baltimore, Md.

SHIPPED: 8-24-64 and 9-16-64, from Burgaw, N.C., by Carlisle Poultry & Egg Associates, Inc.

LABEL IN PART: (Some cans) "Carlisle Poultry and Egg Assoc., Inc. Burgaw, North Carolina. * * * Whole Eggs."

LIBELED: 10-1-64, 10-5-64, Dist. Md.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 11-10-64. Consent—claimed by shipper for reconditioning. The reconditioning operations were unsuccessful and the article was subsequently destroyed.

29937. Frozen eggs. (F.D.C. No. 50725. S. Nos. 86-719 A, 88-126 A.)

QUANTITY: 26 30-lb. cans, at Memphis, Tenn.

SHIPPED: 7-9-64, from Birmingham, Ala., by Schneider Bros., Inc.

LABEL IN PART: "Frozen Selected Whole Eggs * * * Packed By Schneider Bros., Inc. Birmingham, Ala."

LIBELED: 10-23-64, W. Dist. Tenn.

CHARGE: 402(a) (1)—when shipped, the article contained an added poisonous and deleterious substance, salmonella micro-organisms (pathogenic bacteria), which may render it injurious to health.

DISPOSITION: 12-3-64. Default—delivered to a Government institution for use as hog feed after cooking.

29938. Egg mix. (F.D.C. No. 49627. S. No. 25-417 X.)

QUANTITY: 84 cases, each containing 12 4-oz. pkgs. of 6 packets each, at Fort Wayne, Ind.

SHIPPED: 8-29-63 and 10-8-63, from Chicago, Ill., by Kraft Foods.

LABEL IN PART: (Pkg.) "New From Kraft * * * Handier than a Dozen Eggs Miracle-Egg Brand Instant Egg White Mix With Golden Egg Yolk Substitute * * * Kraft Foods, Chicago 90, Ill. Div. National Dairy Products Corp. * * * Directions."

ACCOMPANYING LABELING: Booklet entitled "A New Best Seller The Egg and You" and display sheets entitled "New Instant Egg White Mix."

LIBELED: 12-4-63, N. Dist. Ind.

CHARGE: 403(a)—when shipped, the labeling of the article bore false and misleading statements, including the name "Miracle-Egg" and the label vignette depicting scrambled eggs which represented and suggested that the article was a new kind of superior eggs, that it could be used generally as a substitute for eggs in cooking, that it was nutritionally superior to eggs and that it would furnish an unusually high amount of nutrition in a quantity which was low in calories; 403(a)—the labeling of the article bore false and misleading statements including the name which represented and suggested in the setting in which they were presented that the article was adequate to

control the cholesterol level of the blood ; and for the treatment and prevention of heart and artery diseases ; and 403(c)—the article was an imitation of another food, dried eggs, and its label failed to bear in type of uniform size and prominence the word “imitation” and immediately thereafter the name of the food imitated.

DISPOSITION: The article was claimed by Kraft Foods Div. of the National Dairy Products Corp., who consented to the entry on 10-12-64, of a decree of condemnation without admitting any of the allegations in the libel. The labeling and the article were both subsequently destroyed.

FEEDS AND GRAINS

29939. Medicated feed. (F.D.C. No. 50286. S. No. 55-994 A.)

QUANTITY: 22 100-lb. bags at Ainsworth, Nebr., in possession of Rogers Grain & Feed.

SHIPPED: 4-27-63, from Chicago, Ill.

LABEL IN PART: (Tag on bag) “Rogers 0.0022% Diethylstilbestrol Mix in 42% Beef Supplement Feed at the rate of one (1) pound per animal day * * * Active Drug Ingredient Diethylstilbestrol 0.0022% * * * Manufactured by Rogers Products Co. Ainsworth, Nebraska * * * for fattening steers and heifers in the feedlot”; and (bag) “Rogers Hi Five * * * Range Cake Manufactured by Rogers Products Company, Ainsworth, Nebr.”

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 31.8 percent of the declared amount of diethylstilbestrol. The article had been manufactured locally by the dealer, Rogers Grain & Feed, from a premix shipped as above.

LIBELED: 6-9-64, Dist. Nebr.

CHARGE: 402(a) (2) (C)—while held for sale, the article contained diethylstilbestrol, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with regulations, in that the label failed to bear adequate directions to provide a daily diethylstilbestrol intake of 10 milligrams for each beef animal.

The libel alleged also that the article was adulterated under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7982.

DISPOSITION: 8-4-64. Default—destruction.

FISH AND SHELLFISH

29940. Frozen perch fillets. (F.D.C. No. 50580. S. Nos. 15-642/44 A.)

QUANTITY: 11,500 lbs., in 10-lb. ctns., at Gloucester, Mass.

SHIPPED: The article was prepared from fish caught by the fishing vessel “Malola” in the waters of the Atlantic Ocean, outside the territorial limits of the State of Massachusetts, and unloaded on 8-24-64.

LIBELED: 9-14-64, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped.

DISPOSITION: 10-29-64. Consent—claimed by New England Fillet Co., Inc., Boston, Mass. Segregated ; 1,080 lbs. destroyed.

29941. Frozen perch fillets. (F.D.C. No. 50579. S. No. 15-680 A.)

QUANTITY: 19,062 lbs., in ctns. of 12 1-lb. pkgs. each, at Gloucester, Mass.

SHIPPED: The article was prepared from fish caught by the fishing vessel "Edith L. Boudreau" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, and unloaded on 8-26-64.

LIBELED: 9-14-64, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 11-20-64. Consent—claimed by Empire Fish Co., Inc., Gloucester, Mass. Segregated; 1,836 lbs. destroyed.

29942. Frozen perch fillets. (F.D.C. No. 50587. S. Nos. 14-746/8 A.)

QUANTITY: 338 cases, each containing 5 10-lb. ctns., at Portland, Maine.

SHIPPED: The fillets were prepared from fish caught by the fishing vessel "Vandal" in the waters of the Atlantic Ocean, outside the territorial limits of the State of Maine, and unloaded on 9-3-64.

LIBELED: 9-23-64, Dist. Maine.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 10-2-64. Consent—claimed by Central Wharf Fisheries, Inc., Portland, Maine. Segregated; 2,510 lbs. destroyed.

29943. Frozen perch fillets. (F.D.C. No. 50550. S. Nos. 15-616/18 A.)

QUANTITY: 21,102 lbs., at Gloucester, Mass.

SHIPPED: The article was from fish caught by fishing vessels "Antonina" and "St. Joseph" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts.

LIBELED: 8-24-64, Dist. Mass.; libel amended on or about 9-12-64.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped.

DISPOSITION: 10-20-64. Consent—claimed by Empire Fish Co., Inc., Gloucester, Mass., and reconditioned; approximately 1,800 lbs. destroyed as a result of reconditioning operations.

29944. Trout fillets. (F.D.C. No. 50035. S. No. 49-362 A.)

QUANTITY: 36 cases, each containing 4 15-lb. ctns., at Detroit, Mich.

SHIPPED: 5-13-63, from Canada.

LIBELED: 4-3-64, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 10-1-64. Default—destruction.

29945. Caviar. (F.D.C. No. 49860. S. No. 48-912 V.)

INFORMATION FILED: 10-7-64, N. Dist. Calif., against Simon Bros., a partnership, San Francisco, Calif.

SHIPPED: 3-28-63, from San Francisco, Calif., to New York, N.Y.

LABEL IN PART: (Can) "Caviar Malossol Fidelis Net Wt. Iron Gate Products Co., Inc., New York."

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, a soluble boron-containing compound, which food additive was unsafe within the meaning of 409, since its use in the article was not in conformity with any regulation or exemption.

PLEA: Guilty.

DISPOSITION: 12-11-64. \$500 fine.

29946. Frozen breaded shrimp. (F.D.C. No. 49539. S. No. 1-746 V.)

INFORMATION FILED: 4-8-64, M. Dist. Fla., against Singleton Packing Corp., Tampa, Fla., and John E. Duggan, vice president.

SHIPPED: 3-16-63, from Tampa, Fla., to Charlotte, N.C.

CHARGE: 402(a)(3)—contained coliform bacteria; and 402(a)(4)—prepared and packed under insanitary conditions whereby it may have been rendered injurious to health.

PLEA: Guilty.

DISPOSITION: 5-22-64. Corporation—\$500 fine; Duggan—\$500 fine.

29947. Frozen breaded shrimp. (F.D.C. No. 50734. S. No. 53-460 A.)

QUANTITY: 130 cases, each containing 12 ctns., at Cleveland, Ohio.

SHIPPED: 9-21-64, from Tampa, Fla., by Shoreline Seafoods, Ltd.

LABEL IN PART: (Ctn.) "Net Wt. 10 ozs. Sea Brand Deluxe Breaded Shrimp—Packed by Shoreline Seafoods, Limited, Tampa, Florida."

LIBELED: 11-17-64, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained excessive coliforms, coagulase positive staphylococci, a high total bacterial count, and *E. coli* when shipped.

DISPOSITION: 12-14-64. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT

29948. Raisins. (F.D.C. No. 50513. S. Nos. 19-470/1 A.)

QUANTITY: 89 30-lb. boxes, at Syracuse, N.Y.

SHIPPED: 2-21-64, from Fresno, Calif.

LIBELED: 8-28-64, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 10-2-64. Default—destruction.

29949. Raisins. (F.D.C. No. 50729. S. Nos. 41-213/14 A.)

QUANTITY: 1,204 30-lb. cases at Austin, Tex.

SHIPPED: 8-10-64, from Fresno, Calif.

LIBELED: 10-30-64, W. Dist. Tex.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-30-64. Default—destruction.

29950. Dried apple chips and dried Great Northern beans. (F.D.C. No. 50695, S. Nos. 2-695/6 A.)

QUANTITY: 195 50-lb. cases of apple chips, and 22 100-lb. bags of Great Northern beans, at Winston-Salem, N.C., in possession of Charles A. Bunn Co., Inc.

SHIPPED: 10-24-62 and 11-22-63, from Yakima, Wash., and North Kansas City, Mo.

LIBELED: 11-4-64, M. Dist. N.C.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: On 11-27-64, the dried apple chips having been claimed by H. C. Pie Co. of Winston-Salem, N.C., a consent decree was filed authorizing the segregation of the dried apple chips and the release to the claimant of any found to be free from adulteration, filth, or presence of insects. On 11-30-64, a default decree was entered with respect to the dried beans which were ordered delivered to a public institution for use as animal feed; and on 12-11-64, the entire lot of the dried apple chips was voluntarily destroyed.

VEGETABLES AND VEGETABLE PRODUCTS*

29951. Canned hominy. (F.D.C. No. 47727. S. Nos. 20-925 T, 20-927/8 T.)

QUANTITY: 30 cases, each containing 24 15-oz. cans of white hominy, 27 cases, each containing 24 15-oz. cans of golden hominy, and 31 cases, each containing 24 15-oz. cans of golden hominy with peppers, at Dallas, Tex.

SHIPPED: 6-6-62, from Muskogee, Okla., by Griffin Manufacturing Co.

LABEL IN PART: (Can) "Griffin's White Hominy [or "Golden Hominy With Salt and Water Added," or "Golden Hominy With Red and Green Sweet Peppers."] Griffin Manufacturing Company Packers and Distributors Muskogee, Oklahoma."

LIBELED: On or about 8-10-62, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insect larvae and insect parts when shipped.

DISPOSITION: 11-21-62. Default—delivered to a public institution for use as animal feed.

29952. Canned sauerkraut. (F.D.C. No. 50512. S. Nos. 52-873/4 A.)

QUANTITY: 24 cases, each containing 24 1-lb. cans, and 40 cases, each containing 24 1-lb. cans, at Bay City, Mich.

SHIPPED: 7-7-64, from Toledo, Ohio, by Hirzel Canning Co.

LABEL IN PART: (Cans of 24-case lot) "Trueworth—Fancy Sauerkraut * * * Packed For Bay City Milling & Grocer Co. Bay City, Mich." and (cans of 40-case lot) "Star Cross—Sauerkraut * * * Packed by Hirzel Canning Company, Toledo, Ohio."

LIBELED: 8-28-64, E. Dist. Mich.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 10-12-64. Default—destruction.

29953. Canned sweetpotato yams. (F.D.C. No. 50244. S. No. 35-524 A.)

QUANTITY: 80 cases, each containing 24 1-lb. 13-oz. cans, at Knoxville, Tenn.

SHIPPED: 2-2-62, from Tabor City, N.C.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 7-2-64, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 8-29-64. Default—destruction.

*See also Nos. 29910, 29950, 29976.

29954. Frozen french fried potatoes. (F.D.C. No. 49867. S. No. 35-182 X.)

INFORMATION FILED: 5-20-64, Dist. Minn., against Jiffy Fry, Inc., a corporation, Crookston, Minn., and Vernon G. Hagen, president.

SHIPPED: 9-6-63, from Crookston, Minn., to Bismarck, N. Dak.

LABEL IN PART: (Cases) "30 Lbs. Net * * * Grade "A" Fancy VALLEY GOLD Straight Cut [or $\frac{3}{8}$ Crinkly Cut] Frozen French Fried Potatoes Manufactured by Jiffy Fry, Inc., Crookston, Minnesota."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-9-64. Jiffy Fry, Inc.—\$500 fine; Vernon G. Hagen—\$200 fine.

29955. Dried lima beans. (F.D.C. No. 50534. S. No. 75-830 A.)

QUANTITY: 200 100-lb. bags, at Rayne, La.

SHIPPED: 8-12-64, from Santa Ana, Calif., by Greenville Bean Growers Association.

RESULTS OF INVESTIGATION: Inspection of the packer, Greenville Bean Growers Association, Santa Ana, Calif., showed that the article had been held under insanitary conditions in an insect-infested warehouse.

LIBELED: 10-5-64, W. Dist. La.

CHARGE: 402(a)(3)—when shipped, the article contained insects, insect larvae, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-25-64. Consent—claimed by Greenville Bean Growers Association, Santa Ana, Calif., and reconditioned.

29956. Dried pinto beans. (F.D.C. No. 50851. S. No. 113-011 A.)

QUANTITY: 66 100-lb. bags at Houston, Tex., in possession of Grocers Supply Co., Inc.

SHIPPED: On unknown dates, from outside the State of Texas.

LIBELED: 12-8-64, S. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-2-65. Default—delivered to the Director of Sanitation of the City of Houston, Tex., and reconditioned for use in the nonprofit and charitable facilities of the City of Houston.

29957. Dried pinto beans and rice (2 seizure actions). (F.D.C. Nos. 50055; 50248. S. Nos. 62-083/4 A; 64-046 A.)

QUANTITY: 99 100-lb. bags of pinto beans, and 11 100-lb. bags of rice, at Northridge, Calif.; and 286 100-lb. bags of pinto beans at Riverside, Calif.

SHIPPED: Between 11-27-63 and 5-8-64, from Stuttgart, Ark., and Kimberly and Filer, Idaho.

LABEL IN PART: (Bags of 286-bag lot of beans) "Outwest Idaho Pinto Beans Packed by Bean Growers Warehouse Association, Inc. Twin Falls, Idaho."

RESULTS OF INVESTIGATION: The 99-bag lot of beans and the rice were in the possession of Orange Empire Co-op and were held under insanitary conditions in a rodent-infested warehouse at Northridge, Calif. Inspection of Bean Growers Warehouse Association, Inc., showed that the 286-bag lot of beans had been

held under insanitary conditions in a rodent-infested warehouse prior to shipment from Filer, Idaho, by Bean Growers Warehouse Association, Inc.

LIBELED: 4-23-64, S. Dist. Calif.; 7-6-64, S. Dist. Calif.

CHARGE: 99-bag lot of beans and the rice, 402(a)(3)—while held for sale, contained rodent urine and 402(a)(4)—held under insanitary conditions.

286-bag lot of beans, 402(a)(3)—when shipped, the article contained rodent urine; and 402(a)(4)—the article had been held under insanitary conditions.

DISPOSITION: Bean Growers Warehouse Association, Inc., claimed the 99-bag lot of beans on 7-17-64, and the 286-bag lot of beans on 8-20-64. Consent decrees of condemnation with respect to the beans were entered on 7-20-64 and 8-21-64, which decrees permitted salvaging under bond. On 7-23-64, a default decree of destruction was filed with respect to the rice. Thereafter, the rice was destroyed; and 2,470 lbs. of pinto beans were denatured for use as animal feed, 34,700 lbs. treated for seed use, and 1,302 lbs. segregated as unfit for any use.

29958. Dried pinto beans. (F.D.C. No. 50913. S. No. 65-686 A.)

QUANTITY: 5 100-lb. bags at El Centro, Calif., in possession of Kirby Foods Co.

SHIPPED: 11-4-64, from Twin Falls, Idaho.

LIBELED: 1-12-65, S. Dist. Calif.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-5-65. Default—destruction.

29959. Dried pinto beans. (F.D.C. No. 50753. S. No. 41-074 A.)

QUANTITY: 109 100-lb. bags, at San Antonio, Tex., in possession of Saldana & Garza, Inc.

SHIPPED: 10-3-64 and 11-4-64, from Greeley, Colo.

LIBELED: 11-25-64, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-21-64. Consent—claimed by Saldana & Garza, Inc. Segregated; 1,000 lbs. destroyed.

29960. Dried red beans. (F.D.C. No. 50497. S. No. 98-450 A.)

QUANTITY: 1,024 100-lb. bags at Stockton, Calif., in possession of Valley Bean Warehouse, Inc.

SHIPPED: 7-10-64, from Quincy, Wash.

LIBELED: 8-10-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-23-64. Consent—claimed by Sun Basin Growers, Inc., of Moses Lake, Wash. Segregated and washed; 3 bags destroyed.

29961. Dried red beans. (F.D.C. No. 50226. S. No. 43-593 A.)

QUANTITY: 400 bags, at Greeley, Colo.

SHIPPED: 5-14-64, from Wheeler, Wash., by Sun Basin Growers, Inc.

LABEL IN PART: (Bag) "OTC Beans packed By Odessa Trading Company, Columbia Basin Division, At Wheeler, Wash. * * * Small Reds 100 Lbs. Net Weight."

RESULTS OF INVESTIGATION: Inspection of the shipper's warehouse showed that the article was stored under insanitary conditions.

LIBELED: 6-9-64, Dist. Colo.

CHARGE: 402(a)(3)—when shipped, contained rodent urine; and 402(a)(4)—held under insanitary conditions prior to shipment.

DISPOSITION: 8-26-64. Consent—claimed by Sun Basin Growers, Inc., of Moses Lake, Wash.; 152 bags destroyed as unfit and the remainder reconditioned.

29962. Dried beans. (F.D.C. No. 50386. S. Nos. 96-594/7 A, 98-426/7 A.)

QUANTITY: 282 100-lb. bags of select pinto beans; 72 100-lb. bags of Great Northern beans; 432 100-lb. bags of pinto beans; 320 100-lb. bags of red beans; 300 100-lb. bags of Great Northern beans; and 1,618 100-lb. bags of red beans, at Stockton, Calif., in possession of Valley Bean Warehouse, Inc.

SHIPPED: Between 3-15-63 and 5-27-64, from Denver, Colo.; Twin Falls, Idaho; Seattle, Wash., and Moses Lake, Wash.

LIBELED: 7-14-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-19-64. Consent—claimed by Klein Bros., Inc., of Stockton, Calif. Washed and segregated; 32 bags destroyed.

TOMATOES AND TOMATO PRODUCTS

29963. Canned tomatoes. (F.D.C. No. 49454. S. No. 26-993 X.)

QUANTITY: 658 cases, each containing 24 cans, at Detroit, Mich.

SHIPPED: 9-6-63 and 9-18-63, from Princess Anne, Md., by Kings Creek Canning Co.

LABEL IN PART: (Can) "Elna Brands Inc. Distributors, Skokie, Ill. Elna Tomatoes—Net Wt. 1 Lb."

LIBELED: 11-20-63, E. Dist. Mich.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 2-10-64. Default—destruction.

29964. Canned tomatoes. (F.D.C. No. 49796. S. No. 19-321 A.)

QUANTITY: 720 cases, each containing 24 1-lb. cans, at Olean, N.Y.

SHIPPED: 1-10-64, from Vienna, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Elmdale Tomatoes * * * Distributed by Eastern Retailer-Owned Grocers Cooperative, Inc. New York, N.Y."

LIBELED: 2-11-64, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 3-27-64. Default—destruction.

29965. Canned tomatoes. (F.D.C. No. 50306. S. Nos. 32-012 A, 32-022 A.)

QUANTITY: 86 cases of 24 cans each, at Cincinnati, Ohio.

SHIPPED: Between 3-20-64 and 4-23-64, from Indianapolis, Ind., by Stokely-Van Camp, Inc.

RESULTS OF INVESTIGATION: Examination showed that the article was short weight and failed to meet the standard of fill of container for canned tomatoes.

The average net weight was found to be 25.50 ozs., the average shortage being 2.50 ozs., or 9 percent. The average fill of container was found to be 84.8 percent.

LABEL IN PART: (Can) "Stokely Van Camp's Finest Tomatoes * * * Net Weight 1 Lb. 12 Oz. * * * Distributed by Stokely-Van Camp, Inc., Indianapolis, Indiana."

LIBELED: 6-19-64, S. Dist. Ohio.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "Net Weight 1 Lb. 12 oz." was inaccurate; and 403(h)(2)—the article fell below the standard of fill for canned tomatoes, since the article contained less than 90 percent of the total capacity of the container, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 8-19-64. Default—delivered to a charitable institution.

29966. Canned tomatoes. (F.D.C. No. 50262, S. Nos. 37-154/5 A.)

QUANTITY: 866 cases, each containing 24 1-lb. cans, and 253 cases, each containing 48 10-oz. cans, at Shreveport, La.

SHIPPED: 6-3-64, from Elsa, Tex., by Elsa Canning Co.

LABEL IN PART: (Can) "Ro-Tel Brand Tomatoes Packed by Elsa Canning Co. Elsa, Texas."

LIBELED: 7-28-64, W. Dist. La.

CHARGE: 402(a)(3)—contained decomposed tomatoes when shipped.

DISPOSITION: 9-9-64. Default—destruction.

29967. Canned tomatoes. (F.D.C. No. 49838, S. No. 73-628 A.)

QUANTITY: 285 cases, each containing 24 cans, at New Orleans, La.

SHIPPED: 1-6-64, from Alamo, Tex., by Alamo Products Co.

LABEL IN PART: (Can) "Orchard Garden Tomatoes Packed by Alamo Products Co., Alamo, Texas."

RESULTS OF INVESTIGATION: Examination showed the article to be approximately 2.67 percent short weight.

LIBELED: 3-13-64, E. Dist. La.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents, since the label statement "net wt. 15 oz." was inaccurate.

DISPOSITION: 9-21-64. Consent—claimed by Alamo Products Co., for relabeling.

29968. Canned tomatoes. (F.D.C. No. 50500, S. Nos. 18-157 A, 19-465 A.)

QUANTITY: 192 cases, of 24 1-lb. cans each, at Utica, N.Y.

SHIPPED: 2-25-64, from King's Creek, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand * * * Peeled Tomatoes * * * Albert W. Sisk And Son Distributors * * * Preston, Md."

LIBELED: 8-12-64, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 10-2-64. Default—destruction.

29969. Canned tomatoes. (F.D.C. No. 50526. S. No. 93-533 A.)

QUANTITY: 97 cases, each containing 24 1-lb. cans, at McGehee, Ark.

SHIPPED: 6-10-64, from Elsa, Tex., by Elsa Canning Co.

LABEL IN PART: (Can) "Ro-Tel Brand Tomatoes Packed by Elsa Canning Co.
Elsa Texas U.S.A."

LIBELED: 9-16-64, E. Dist. Ark.

CHARGE: 402(a)(3)—contained decomposed tomatoes when shipped.

DISPOSITION: 11-3-64. Default—delivered to a charitable institution for use as animal feed.

29970. Canned tomatoes. (F.D.C. No. 50651. S. No. 59-372 A.)

QUANTITY: 274 cases, each containing 24 1-lb. cans, at Chanute, Kans.

SHIPPED: 8-4-64, from Reeds Spring, Mo., by Emerson Canning Co.

LABEL IN PART: (Can) "Emerson Brand Tomatoes * * * Packed by Emerson Canning Co. Reeds Spring, Mo."

LIBELED: 10-6-64, Dist. Kans.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel, per pound of canned tomatoes in the containers, which covered an area of more than one square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 12-16-64. Default—delivered to a Government institution.

29971. Tomato catsup. (F.D.C. No. 50260. S. Nos. 31-467 A, 34-758 A.)

QUANTITY: 999 cases, each containing 6 unlabeled cans, at Cincinnati, Ohio.

SHIPPED: 5-6-64 and 5-22-64, from Indianapolis, Ind., by Stokely-Van Camp, Inc.

LABEL IN PART: (Case) "Ex. Std. Catsup."

LIBELED: 7-23-64, S. Dist. Ohio.

CHARGE: 402(a)(3)—when shipped, contained decomposed tomato material; 403(e)—the article failed to bear (1) the name and address of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents; and 403(g)(2)—the article purported to be catsup, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the food specified in such regulations, namely, catsup.

DISPOSITION: 10-9-64. Default—destruction.

29972. Canned tomato paste. (F.D.C. No. 50404. S. Nos. 11-730/1 A.)

QUANTITY: 213 cases, each containing 6 6-lb. 15-oz. cans, at Richmond, Va.

SHIPPED: 12-24-63, from San Jose, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 7-23-64, E. Dist. Va.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 10-22-64. Default—destruction.

29973. Canned tomato juice. (F.D.C. No. 50690. S. No. 6-188 A.)

QUANTITY: 199 cases, each containing 12 1-qt. 14-oz. cans, at Huntington, W. Va.

SHIPPED: 9-16-64, from Ontario, N.Y., by Victor Preserving Co.

LABEL IN PART: (Can) "Shurfine Tomato Juice * * * Distributed by Eastern Retailer-Owned Grocers Cooperative, Inc., New York, N.Y."

LIBELED: 10-27-64, S. Dist. W. Va.

CHARGE: 402(a)(3)—contained fly eggs and fly maggots when shipped.

DISPOSITION: 12-7-64. Default—destruction.

MEAT PRODUCTS AND POULTRY

29974. Frozen pork ribs. (F.D.C. No. 50515. S. Nos. 72-151 A, 72-153 A.)

QUANTITY: 1,458 30-lb. ctns. at New Orleans, La.

SHIPPED: 7-23-64, from Cudahy, Wis.

LIBELED: 8-28-64, E. Dist. La.

CHARGE: 402(a)(3)—contained decomposed meat while held for sale.

DISPOSITION: 9-28-64. Default—destruction.

29975. Frozen chicken. (F.D.C. No. 48655, S. No. 61-548 V.)

QUANTITY: 77 crates, each containing 12 ctns., at Dallas, Tex.

SHIPPED: 1-28-63, from Atlanta, Ga., by Tennessee Egg Co.

LABEL IN PART: (Ctn.) "Sweet Georgia Frying Chicken Parts * * * Thighs Net Wt. 2 Lbs. 8 Ozs. * * * Packed & Distributed By Tennessee Egg Company, Atlanta, Georgia."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 3-13-63, N. Dist. Tex.

CHARGE: 403(e)(2)—the label of the article failed to bear an accurate statement of the quantity of contents when shipped.

DISPOSITION: 6-24-63. Consent—claimed by Superior Wholesale Market, Inc., Dallas, Tex., for sale as a single lot for consumption and not for retail resale.

NUTS AND NUT PRODUCTS

29976. Shelled peanuts, olives, and mustard seed. (F.D.C. No. 50475. S. Nos. 16-340 X, 17-075/8 X.)

INFORMATION FILED: 11-3-64, S. Dist. Ind., against Food Specialties, Inc., Indianapolis, Ind.

ALLEGED VIOLATION: Between 5-23-63 and 12-11-63, while a number of bags of shelled peanuts, a number of barrels of olives, and a number of bags of mustard seed were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the olives contained insects, insect larvae, insect parts, and fly eggs, and 402(a)(4)—all the articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-29-64. \$150 fine, plus costs.

29977. Shelled peanuts. (F.D.C. No. 50233. S. No. 72-236 A.)

QUANTITY: 320 125-lb. bags at Birmingham, Ala.

SHIPPED: 4-29-64, from Blakely, Ga., by Blakely Peanut Co.

LABEL IN PART: (Bag) "Shelled Runner Peanuts Blakely Peanut Company, Blakely, Georgia."

LIBELED: 6-18-64, N. Dist. Ala.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-15-64. Consent—claimed by the Bama Co., Birmingham, Ala., and reconditioned.

29978. Shelled peanuts. (F.D.C. No. 50678. S. No. 105-376 A.)

QUANTITY: 36 100-lb. bags, at Tacoma, Wash., in possession of Nichols Trucking Co., Inc.

SHIPPED: 6-9-64, from Suffolk, Va.

LIBELED: 10-21-64, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-31-64. Default—delivered to a public institution for use as animal feed.

29979. Shelled Spanish peanuts. (F.D.C. No. 50270. S. No. 62-214 A.)

QUANTITY: 334 bags, each containing 119 lbs., at Santa Fe Springs, Calif.

SHIPPED: 7-15-64, from San Antonio, Tex., by Bell Brand Foods, Ltd.

LABEL IN PART: (Bag) "Bain Peanut Co. of San Antonio * * * San Antonio, Texas * * * Splits * * * Spanish Shelled Peanuts."

LIBELED: 8-5-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained moldy peanuts when shipped.

DISPOSITION: 8-28-64. Consent—claimed by Bell Brands, Ltd. Segregated; 2,499 lbs. destroyed.

29980. Shelled Spanish peanuts. (F.D.C. No. 50218. S. Nos. 60-371/2 A.)

QUANTITY: 121 114¼-lb. bags and 47 115-lb. bags at Compton, Calif., in possession of Compton Nut Co., Inc.

SHIPPED: Between 12-31-63 and 4-25-64, from Comanche, Tex., and Williamston, N.C.

LIBELED: 6-1-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-8-64. Consent—claimed by Compton Nut Co., Inc., Compton, Calif. Segregated; 422 lbs. destroyed.

29981. Shelled Spanish peanuts. (F.D.C. No. 50449. S. Nos. 40-357/8 A, 41-383 A, 41-385 A.)

QUANTITY: 623 99.25-lb. bags of shelled peanuts and 246 99.25-lb. bags of split shelled peanuts at Seattle, Wash.

SHIPPED: 5-29-64 and 6-24-64, from Durant, Okla., to Dallas, Tex., by Durant Cotton Oil & Peanut Corp., and reshipped 7-17-64, to Seattle.

LABEL IN PART: (Bag) "Pee Wee * * * Shelled [or "Split Shelled"] Spanish Peanuts * * * Durant Cotton Oil & Peanut Corp., Durant, Oklahoma."

LIBELED: 8-13-64, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-9-64. Consent—claimed by Durant Cotton Oil & Peanut Corp. Cleaned; 3,505 lbs. segregated as unfit.

29982. Shelled Spanish peanuts. (F.D.C. No. 50450. S. Nos. 40-356 A, 40-359/60 A, 41-382 A, 41-384 A.)

QUANTITY: 1,495 99¼-lb. bags, at Dallas, Tex.

SHIPPED: Between 5-11-64 and 6-2-64, from Durant, Okla., by Durant Cotton Oil & Peanut Corp.

LABEL IN PART: (Bag) "No. 1 Split [or "Pee Wee", or "Pee Wee Split"] Shelled Spanish Peanuts * * * Durant Cotton Oil & Peanut Corp., Durant, Oklahoma."

LIBELED: 8-27-64, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-16-64. Consent—claimed by Durant Cotton Oil & Peanut Corp. Reconditioned and segregated; 1,845 lbs. destroyed.

29983. Unshelled peanuts. (F.D.C. No. 50542. S. No. 4-542 A.)

QUANTITY: 728 bags at Forest Park, Ga.

SHIPPED: 7-22-64, from Portales, N. Mex., by Borden Peanut Co.

LABEL IN PART: (Bag) "Borden's New Mexico Valencia Peanuts Lbs. 50 Net Packed & Shipped by Borden Peanut Co. Portales, N.M."

LIBELED: 8-14-64, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect larvae, and rodent hairs when shipped.

DISPOSITION: 9-30-64. Default—ordered destroyed or delivered to a Government agency for use as animal feed.

29984. Chestnuts. (F.D.C. No. 50536. S. No. 99-148 A.)

QUANTITY: 12 55-lb. bags at Oakland, Calif., in possession of Veronica Olive Oil Co., Inc.

SHIPPED: 12-9-63, from Naples, Italy, and on unknown dates from outside the State of California.

LIBELED: 10-9-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insect larvae, insect excreta, and moldy nuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-5-64. Default—destruction.

29985. Chestnuts. (F.D.C. No. 50745. S. No. 23-621 A.)

QUANTITY: 4 unlabeled bushel baskets and 13 55-lb. bags at Buffalo, N.Y.

SHIPPED: 10-19-64, from New York, N.Y., after being imported from Italy.

LIBELED: 11-19-64, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained moldy nuts while held for sale.

DISPOSITION: 12-23-64. Default—destruction.

29986. Shelled cashews. (F.D.C. No. 50602. S. No. 82-495 A.)

QUANTITY: 20 25-lb. ctns. at New York, N.Y.

SHIPPED: 9-8-64, from Atlanta, Ga., by Jos. A. Zaloom & Co., Inc.

LABEL IN PART: (Ctn.) "New York Recleaned Scor. Cashew Pieces Jos. A. Zaloom Co. N.Y."

LIBELED: 10-7-64, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 11-4-64. Default—destruction.

29987. Shelled cashews. (F.D.C. No. 50582. S. No. 5-061 A.)

QUANTITY: 780 25-lb. cases, at Atlanta, Ga.

SHIPPED: 8-19-64, from New York, N.Y., by Jos. A. Zaloom & Co., Inc.

LABEL IN PART: (Case) "New York Recleaned Scor. Cashew Pieces Jos. A. Zaloom Co., N.Y."

LIBELED: 9-15-64, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 10-26-64. Consent—claimed by Jos. A. Zaloom & Co., Inc. Segregated and reconditioned; 825 lbs. destroyed.

29988. Unshelled pecans. (F.D.C. No. 50746. S. No. 109-637 A.)

QUANTITY: 76 50-lb. bags, at Knoxville, Tenn.

SHIPPED: 11-2-64, from Foley, Ala.

LIBELED: 11-20-64, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 12-15-64. Default—delivered to a charitable institution on condition the unfit portion be segregated and destroyed.

29989. Unshelled pecans. (F.D.C. No. 49570. S. No. 55-631 X.)

QUANTITY: 242 50-lb. bags at Cincinnati, Ohio.

SHIPPED: 12-16-63, from Montgomery, Ala., by Tucker Pecan Co.

LIBELED: 12-20-63, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed nuts, shriveled nuts, and empty shells when shipped.

DISPOSITION: 12-3-64. Consent—destruction.

29990. Unshelled pecans. (F.D.C. No. 50857. S. No. 9-328 A.)

QUANTITY: 198 cases, each containing 24 1-lb. pkgs., and 17 1-lb. pkgs., at Richmond, Va.

SHIPPED: 11-3-64, from Valdosta, Ga.

LIBELED: 11-30-64, E. Dist. Va.

CHARGE: 402(a)(3)—contained moldy and decomposed nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 12-30-64. Consent—claimed by Dasher Pecan Co., Valdosta, Ga., for reconditioning by shelling and salvage of the edible meats.

SPICES, FLAVORS, AND SEASONING MATERIALS*

29991. Caraway seed, mustard seed, and sesame seed. (F.D.C. No. 49246. S. Nos. 38-483/5 X.)

QUANTITY: 1 unlabeled 75-lb. drum of ground caraway seed, 4 109-lb. bags of caraway seed, 9 110-lb. bags of mustard seed, and 3 100-lb. bags of sesame seed, at New Orleans, La.

SHIPPED: Between 3-7-63 and 6-12-63, from Brooklyn, N.Y., Power, Mont., and Brazil.

LIBELED: 9-23-63, E. Dist. La.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 11-27-63. Consent—claimed by New Orleans Import Co., Ltd., of New Orleans for reconditioning. The 9 bags of mustard seed were reconditioned and the other articles were destroyed since attempts to recondition did not prove to be satisfactory.

29992. Chili powder, chili pods, anise seed, and cumin seed. (F.D.C. No. 50439. S. No. 39-056 A.)

QUANTITY: 1 220-lb. bbl. of chili powder, 1 50-lb. drum of chili pods, 3 115-lb. bags of anise seed, and 1 110-lb. bag of cumin seed, at Laredo, Tex., in possession of Casso Guerra & Co.

SHIPPED: Between 12-6-62 and 6-19-64, from Los Angeles, Calif., Brooklyn, N.Y., and Nuevo Laredo, Mexico.

LIBELED: 8-21-64, S. Dist. Tex.

CHARGE: 402(a) (3)—all except cumin seed contained insects, and 402(a) (4)—all held under insanitary conditions.

DISPOSITION: 10-5-64. Default—destruction.

**VITAMIN, MINERAL, AND OTHER PRODUCTS OF
SPECIAL DIETARY SIGNIFICANCE****

29993. Lanvite multiple vitamin and mineral tablets. (F.D.C. No. 49902. S. No. 18-928 A.)

QUANTITY: 603 100-tablet btls. and 9 1,000-tablet btls. at Buffalo, N.Y.

SHIPPED: 12-27-63, from Philadelphia, Pa., by Vitamix Pharmaceuticals, Inc.

LABEL IN PART: (Btl.) "Lanvite Multiple Vitamins and Minerals Dosage: Adults 1-3 Tablets Daily Each tablet contains; Hematinics * * * Folic Acid (Vitamin) .1 mg. * * * Lipotropic Factors Methionine (Amino Acid) 25 mg. Vitamins * * * Minerals Calcium (from Dicalcium) 23 mg. Phosphorus Phosphate 100 mg.) 18 mg. * * * Sodium Molybdate 3 mg. * * * Distributed by The Buffalo Pharmaceutical Supply Corp. Buffalo, N.Y."

LIBELED: 3-24-64, W. Dist. N.Y.

CHARGE: 402(a) (2) (C)—when shipped, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption; and 403(a)—the listing on the label of the article of the following ingredients: calcium, phosphorus, methionine, and sodium molybdate, implied and suggested

*See also No. 29976.

**See also Nos. 29909, 29929.

that the nutritional value of the article was enhanced by the presence of such ingredients, when such implication and suggestion were false and misleading since the nutritional value of the article was not enhanced by the presence of such ingredients.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7963.

DISPOSITION: 7-7-64. Consent—claimed by Buffalo Pharmaceutical Supply Corp., for relabeling.

29994. Yeast. (F.D.C. No. 47985. S. Nos. 62-248/50 T.)

QUANTITY: 5½ 200-lb. drums, 1¼ 125-lb. drums, 1½ 125-lb. drums, at St. Johnsbury, Vt., in possession of Mrs. Mildred Hatch.

SHIPPED: Between 6-4-62 and 6-29-62, from Milwaukee, Wis., and St. Louis, Mo.

ACCOMPANYING LABELING: Leaflets entitled "Answers To Some Questions About Yeast" dated April 15, 1962; and repack labels.

RESULTS OF INVESTIGATION: In the normal course of the dealer's business operations the bulk material described above was repacked on order into consumer-size bags of various sizes, and labeled as "Yeast" or "Yeast Extract."

LIBELED: 8-17-62, Dist. Vt.

CHARGE: 403(j)—while held for sale, the articles purported to be and were represented as foods for special dietary uses, and their labels failed to bear as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin B₁, riboflavin, niacin, and iron supplied by such foods when consumed in a specified quantity during a period of one day; and a statement of the percent by weight of protein, fat, and available carbohydrates in such foods and the number of available calories supplied by a specified quantity of such food.

The libel alleged also that the articles were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7988.

DISPOSITION: 2-11-64. Consent—claimed by Mrs. Hatch and relabeled.

29995. Dietary food capsules. (F.D.C. No. 50103. S. Nos. 14-005/6 A.)

QUANTITY: 102 100-capsule btls. of Multi-Vitamin capsules and 86 100-capsule btls. of Geriatric Formula, at Waterbury, Conn.

SHIPPED: Between 12-19-62 and 2-18-64, from Newark, N.J., by Watkins Products, Inc.

LABEL IN PART: (Btl. and ctn.) "Watkins * * * Dietary Food Capsules Multi-Vitamins With Minerals * * * Distributed by Watkins Products, Inc., Winona, Minn. * * * Vitamins and Minerals in Each Capsule: * * * Folic Acid 0.25 Mg. * * * As a dietary supplement take one capsule daily"; and "Dietary Food Capsules Special Geriatric Formula * * * Vitamins and Minerals In Each Capsule: * * * Folic Acid 0.34 mg. * * * Take one capsule daily as a dietary supplement."

LIBELED: 5-22-64, Dist. Conn.

CHARGE: 402(a)(2)(C)—when shipped, the Multi-Vitamin capsules and, while held for sale, the Geriatric Formula capsules, contained folic acid, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect.

DISPOSITION: 8-11-64. Default—destruction.

29996. Dietary supplement capsules. (F.D.C. No. 49997. S. No. 39-861 A.)

QUANTITY: 529 100-capsule btls. and 13 500-capsule btls. at Dallas, Tex.

SHIPPED: Between 11-20-62 and 1-11-63, from Detroit, Mich.

RESULTS OF INVESTIGATION: Examination indicated that the article contained 0.1 mgm. of folic acid and that the dosage was one capsule 3 times daily as a vitamin supplement during pregnancy.

LIBELED: On or about 7-23-64, N. Dist. Tex.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained folic acid, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 9-16-64. Default—destruction.

29997. Dietary supplement tablets. (F.D.C. No. 50433. S. No. 3-180 A.)

QUANTITY: 37 ctns., each containing 12 100-tablet btls., at Douglasville, Ga.

SHIPPED: 2-7-64, from Greenville, S.C., by Table Rock Laboratories, Inc.

LABEL IN PART: (Btl.) "Tablets * * * Phosphorus-Free A Vitamin and Mineral Dietary Supplement For Use in Pre-natal Care and Lactation * * * Each Tablet Contains: * * * Thiamine Mononitrate 2 mg. * * * Ascorbic Acid 40 mg."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the declared amount of ascorbic acid, and approximately 78 percent of the declared amount of thiamine mononitrate.

LIBELED: 8-10-64, N. Dist. Ga.

CHARGE: 402(b)(1)—while held for sale, valuable constituents of the article, ascorbic acid and thiamine mononitrate, had been in part abstracted or omitted therefrom: 403(a)—the label statements "Each Tablet Contains: * * * Thiamine Mononitrate 2 mg. * * * Ascorbic Acid 40 mg." were false and misleading as applied to a product containing less than the declared amounts of those ingredients; and 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use for pregnant and lactating women, and its label failed to bear such information concerning its mineral properties as the Secretary has determined to be and by regulations prescribed as necessary in order fully to inform purchasers as to its value for such use, since its label failed to bear, as the regulations required, a statement of the proportion of the minimum daily requirement for calcium and iron supplied by such food when consumed in a specified quantity during a period of one day; and a statement of the quantity of manganese, copper, zinc, and magnesium present in a specified quantity of such food.

DISPOSITION: 9-22-64. Default—destruction.

29998. Dietary food supplement. (F.D.C. No. 50300. S. Nos. 63-752 V, 60-825/27 A, 60-829/31 A.)

QUANTITY: 71 cases, each containing 24 pkgs., and 42 cases, each containing 48 pkgs., at Phoenix, Ariz.

SHIPPED: Between 12-28-62 and 4-23-63, and on unknown dates, from Beverly Hills, Calif.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 78 percent of the declared amount of vitamin B₁₂.

LIBELED: 6-23-64, Dist. Ariz.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "2 Vitamin Tablets and 4 Mineral Tablets Daily Will supply * * * Vitamin B₁₂ Activity (Cobalamin) 5 mcg." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 8-14-64. Default—destruction.

29999. Dietary supplement. (F.D.C. No. 50525. S. No. 30-493 A.)

QUANTITY: 257 individually ctnd. 8-oz. btls. and 28 individually ctnd. 24-oz. btls. at Marietta, Ohio.

SHIPPED: Between 1-1-60 and 12-31-61, from Lafayette, Ind.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 70 percent of the declared amount of vitamin B₁.

LIBELED: 9-14-64, S. Dist. Ohio.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "4 Tablespoonfuls (2 Fl. Oz.) contain the Vitamins B₁—6 Mg." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 11-6-64. Default—destruction.

30000. Multiple vitamin tablets. (F.D.C. No. 50537. S. No. 74-959 A.)

QUANTITY: 3 cases, each containing 144 100-tablet btls., at Birmingham, Ala.

SHIPPED: 12-26-62, from Oak Park, Mich.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 78 percent of the declared amount of vitamin B₁.

LIBELED: 10-2-64, N. Dist. Ala.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each Tablet Contains—vitamin B₁ (Thiamin Hydro) 3 Mg." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 11-25-64. Default—destruction.

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¹ (29901) Injunction issued.

² (29925) Seizure contested. Contains opinion of the court.

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		Whey, dried -----	29932
		Yeast -----	29994

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Alamo Products Co. :		Ashton Farmers Elevator Co. :	
canned tomatoes -----	29967	wheat -----	29914
American Pop Corn Co. :		Bain Peanut Co. :	
unpopped popcorn -----	29922	shelled Spanish peanuts -----	29979
Antonina (boat) :		Bay City Milling & Grocer Co. :	
frozen perch fillets -----	29943	canned sauerkraut -----	29952
		Bean Growers Warehouse Asso-	
		ciation, Inc. :	
		dried pinto beans and rice ----	29957

² (29925) Seizure contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Bell Brand Foods, Ltd.:		Eastern Retailer-Owned Grocers	
shelled Spanish peanuts-----	29979	Cooperative, Inc.:	
Blakely Peanut Co.:		canned tomatoes-----	29964
shelled peanuts-----	29977	canned tomato juice-----	29973
Boats. <i>See</i> Antonina, Edith L.		Elk Grocery Co.:	
Boudreau, Malola, St. Joseph, and Vandal.		flour -----	29906
Borden Peanut Co.:		Elna Brands, Inc.:	
unshelled peanuts-----	29983	canned tomatoes-----	29963
Boudreau, Edith L. (boat):		Elsa Canning Co.:	
frozen perch fillets-----	29941	canned tomatoes-----	29966, 29969
Brenham Wholesale Grocery Co., Inc.:		Elwood Grain Co.:	
flour -----	29907	wheat -----	29913
Buffalo Pharmaceutical Supply Corp.:		Emerson Canning Co.:	
Lanvite multiple vitamin and mineral tablets-----	29993	canned tomatoes-----	29970
Burbank Refrigerating Co.:		Farmers Cooperative Elevator Co.:	
frozen eggs-----	29933	wheat -----	29912
Burl's Pie Shop:		Farmers Union Elevator Co.:	
various bakery products-----	¹ 29901	wheat -----	29917
Bunn, Charles A., Co., Inc.:		Food Specialties, Inc.:	
dried apple chips and dried Great Northern beans-----	29950	shelled peanuts, olives, and mustard seed-----	29976
Carlisle Poultry & Egg Associates, Inc.:		Fresh Pak Candy Co.:	
frozen eggs-----	29936	candy -----	29927
Carnation Co.:		Gilbert Nut Co.:	
Ease Instant Sirup-----	29929	unpopped popcorn-----	29921
Coker, Ivybelle:		Greenville Bean Growers Association:	
various bakery products-----	¹ 29901	dried lima beans-----	29955
Coker, J. L.:		Griffin Manufacturing Co.:	
various bakery products-----	¹ 29901	canned hominy-----	29951
Columbia Basin Div. <i>See</i> Odessa Trading Co.		Grocers Supply Co., Inc.:	
Compton Nut Co., Inc.:		dried pinto beans-----	29956
shelled Spanish peanuts-----	29980	Guerra, Casso, & Co.:	
Consolidated Dairies, Inc.:		chili powder, chili pods, anise seed, and cumin seed-----	29992
wheat -----	29911	Hagen, V. G.:	
Crugnale's Bakery, Inc.:		frozen french fried potatoes--	29954
Spring Wheat flour and First Patent flour-----	29903	Happyvale Flour Mills:	
Dixie Grocery Co.:		flour -----	29905
unpopped popcorn-----	29924	Hatch, Mrs. Mildred:	
Duggan, J. E.:		yeast -----	29994
frozen breaded shrimp-----	29946	Hirzel Canning Co.:	
Durant Cotton Oil & Peanut Corp.:		canned sauerkraut-----	29952
shelled Spanish peanuts-----	29981, 29982	Iron Gate Products Co., Inc.:	
		caviar -----	29945
		Jiffy Fry, Inc.:	
		frozen french fried potatoes---	29954
		Just Born, Inc.:	
		bridge mix candy-----	29928

¹ (29901) Injunction issued.

	N.J. No.		N.J. No.
Kings Creek Canning Co. :		Riley, Earl K., Co. :	
canned tomatoes-----	29963	frozen eggs-----	29935
Kirby Foods Co. :		Rogers, C. L. :	
dried pinto beans-----	29958	dried whey-----	29932
Kraft Foods, Div. National Dairy		Rogers Grain & Feed :	
Products Corp. :		medicated feed-----	29939
egg mix-----	29938	Rogers Products Co. :	
Letty Lane Co., Inc. :		medicated feed-----	29939
bridge mix candy-----	29928	St. Francis Mercantile Equity	
Malola (boat) :		Exchange :	
frozen perch fillets-----	29940	wheat -----	29918, 29920
Marlow Egg Farm :		St. Joseph (boat) :	
frozen eggs-----	29933	frozen perch fillets-----	29943
Mazeppa Co-operative Dairy As-		Saldana & Garza, Inc. :	
sociation :		dried pinto beans-----	29959
butter -----	29930	Schneider Bros., Inc. :	
Merchants Tobacco & Grocery		frozen eggs-----	29937
Co. :		Scranton Equity Exchange :	
macaroni and cake mix-----	29908	wheat -----	29915
Missouri, Kansas & Texas Rail-		Shawnee Milling Co. :	
road Co. :		flour -----	29905
flour -----	29904	Shoreline Seafoods, Ltd. :	
Montana Flour Mills Co. :		frozen breaded shrimp-----	29947
wheat -----	29916	Simon Bros. :	
National Butter Co. :		caviar -----	29945
butter -----	29930	Singleton Packing Corp. :	
National Dairy Products Corp.		frozen breaded shrimp-----	29946
See Kraft Foods.		Sisk, Albert W., & Son :	
Nichols Trucking Co., Inc. :		canned tomatoes-----	29964, 29968
shelled peanuts-----	29978	Stokely-Van Camp, Inc. :	
Nix, F. L. :		canned tomatoes-----	29965
various bakery products----- ¹	29901	tomato catsup-----	29971
North American Food Distribut-		Stuckey's, Inc. :	
ing Co. :		Stuckey's Crunch (candy)----	29926
rice and Azuki beans-----	29910	Sun Basin Growers, Inc. :	
Odessa Trading Co., Columbia		dried red beans-----	29961
Basin Div. :		Sunline, Inc. :	
dried red beans-----	29961	Lik-M-Aid candy and Pixy Stix	
Orange Empire Co-op :		candy ----- ²	29925
dried pinto beans and rice----	29957	Table Rock Laboratories, Inc. :	
Petrie Wholesalers, Inc. :		dietary supplement tablets----	29997
unpopped popcorn, coconut		Taylor, Bonnie :	
bonbons, candy orange slices,		various bakery products----- ¹	29901
hominy grits, and candy		Taylor, J. Z. :	
cream drops-----	29923	various bakery products----- ¹	29901
Prince Macaroni Manufacturing		Tennessee Egg Co. :	
Co., Inc. :		frozen chicken-----	29975
macaroni and noodle products_	29909	Tucker Pecan Co. :	
		unshelled pecans-----	29989
		Valley Bean Warehouse, Inc. :	
		dried beans-----	29962
		dried red beans-----	29960

¹ (29901) Injunction issued.² (29925), Seizure contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Vandal (boat) :		Watkins Products, Inc. :	
frozen perch fillets-----	29942	dietary food capsules-----	29995
Veronica Olive Oil Co., Inc. :		Weavers Quality Eggs, Inc. :	
chestnuts -----	29984	frozen eggs-----	29934
Victor Preserving Co. :		Zaloom, Jos. A., & Co., Inc. :	
canned tomato juice-----	29973	shelled cashews-----	29986, 29987
Vitamix Pharmaceuticals, Inc. :			
Lanvite multiple vitamin and			
mineral tablets-----	29993		

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

NOV 19 1965

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act] CURRENT SERIAL RECORDS

30001-30100

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, when shipped to a holder of a guaranty, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent, including, in one case, the dismissal of the libel as to part of the goods; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; in one case, upon a verdict of not guilty after trial by the court; and in one case, upon a verdict of guilty as to one defendant and a dismissal as to one defendant after trial by jury; and (3) injunction proceedings in which a decree of permanent injunction was entered in one case and a temporary restraining order was entered in one case. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., November 3, 1965.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30001-30100

Adulteration; Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (A), the article contained an added deleterious substance, which was unsafe within the meaning of Section 406; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 406, a deleterious substance was unsafe since such substance was not required in the production of food and could have been avoided by good manufacturing practice; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h) (2), the article purported to be or was represented as a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; and Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS

30001. Coffee beans. (F.D.C. No. 50978. S. No. 6-251 A.)

QUANTITY: 500 132-lb. bags, at Norfolk, Va., in possession of Lambert's Point Docks, Inc.

SHIPPED: 12-12-63, from Santos, Brazil.

LIBELED: 1-13-65, E. Dist. Va.

CHARGE: 402(a)(3)—was rodent gnawed and contained rodent urine, rodent excreta pellets, and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-27-65. Consent—claimed by J. Aron & Co., Inc., of New York, N.Y. Segregated and reconditioned; 1,054 lbs. destroyed.

30002. Coffee beans. (F.D.C. No. 50730. S. Nos. 109-567 A, 109-569 A.)

QUANTITY: 305 130-lb. bags, at Sunbury, Ohio, in possession of the Nestle Co., Inc.

SHIPPED: 2-20-64, from Hoboken, N.J.

LIBELED: 10-30-64, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-25-64. Consent—claimed by the Nestle Co., Inc. Segregated and cleaned.

30003. Tea bags. (F.D.C. No. 48933. S. No. 65-764 V.)

QUANTITY: 174 ctns., each containing 10 boxes of 100 tea bags each, at Brooklyn, N.Y.

SHIPPED: Between 3-20-63 and 4-5-63, from Bristol, Pa., by National Tea Packing Co., Inc.

LABEL IN PART: (Box) "Ehlers Colonial Blend * * * 6½ ozs. Net Wt. Distributed by Albert Ehlers, Inc., Brooklyn, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-15-63, E. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-28-63. Consent—claimed by Albert Ehlers, Inc., Brooklyn, N.Y., and relabeled.

30004. Brandy. (F.D.C. No. 48982. S. No. 83-153 V.)

QUANTITY: 60 cases, each containing 12 fifths of brandy, at New York, N.Y.

SHIPPED: 3-10-63, from Vigo, Spain, by Bodegas Vinicola Gallego.

LABEL IN PART: (Case) "Bodegas Vinicola Gallego Mosteiro Aguardient—Grape Brandy * * * Bodegas Vinicola Gallego—Vigo (Espana)"; (btl.) "Product of Spain Aguardient de Uva Grape Brandy * * * Mosteiro Marca Registrada * * * Bodegas Vinicola Gallego—Vigo (Espana)"; and (strip label on btl.) "Imported by Briones & Co., Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article contained methyl alcohol, and that the quantity of such substance in the article ordinarily rendered it injurious to health.

LIBELED: On or about 5-27-63, S. Dist. N.Y.

CHARGE: 402(a)(1)—contained a poisonous or deleterious substance when shipped.

DISPOSITION: 7-16-63. Default—25 bottles delivered to the Food and Drug Administration; remainder destroyed.

CEREALS AND CEREAL PRODUCTS**CORNMEAL***

30005. Cornmeal. (F.D.C. No. 50797. S. No. 1-619 A.)

INFORMATION FILED: 2-3-65, N. Dist. Ga., against Bilt-More Food Products Co., Inc., and Allied Food Distributors, Inc., Atlanta, Ga.

ALLEGED VIOLATIONS: Between 2-10-64 and 5-7-64, while a number of bags of cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents and to be exposed to contamination by rodents.

CHARGE: 402(a)(3)—contained rodent urine, rodent hair, and rodent excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-22-65. \$100 total fine.

30006. Cornmeal and flour. (F.D.C. No. 51049. S. Nos. 6-161/3 A.)

INFORMATION FILED: 4-21-65, S Dist. W. Va., against Elba Lee Maynard, t/a Maynard Grocery Co., Williamson, W. Va.

ALLEGED VIOLATIONS: Between 10-11-63 and 6-5-64, while quantities of cornmeal and flour were being held for sale after shipment in interstate commerce, the defendant caused such cornmeal and flour to be held in a building accessible to rodents and insects and to be exposed to contamination by rodents, which acts resulted in the cornmeal and flour being adulterated.

CHARGE: 402(a)(3)—the cornmeal contained rodent excreta and rodent hairs, and the flour contained rodent excreta, rodent hairs, and rodent urine; and 402(a)(4)—the cornmeal and flour were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-27-65. \$600 fine.

FLOUR**

30007. Enriched flour. (F.D.C. No. 50634. S. Nos. 38-154 A, 44-702 A.)

INFORMATION FILED: 2-8-65, Dist. N. Mex., against Arthur O. Cordová, t/a Jarales Roller Mills, Jarales, N. Mex.

SHIPPED: 12-26-63 and 4-4-64, from Jarales, N. Mex., to El Paso, Tex.

LABEL IN PART: (Bag) "10 Lbs. Net Royal Crust Flour Enriched Eight Ozs. Of Enriched Flour Supply Not Less Than The Following Proportions Of The Minimum Daily Requirements Of: Thiamine, 100%; Riboflavin, 50%; Niacin, 80%; and Iron, 65%. Thiamine, Riboflavin and Niacin Are B Vitamins. MF'D By Jarales Roller Mills Jarales, N. Mex."

CHARGE: 402(b)(1)—when shipped, valuable constituents of the article, thiamine, riboflavin, niacin, and iron had been in part omitted from the article.

PLEA: Guilty.

DISPOSITION: 3-5-65. Probation for 1 year.

30008. Enriched flour. (F.D.C. No. 49683. S. No. 21-546 V.)

INFORMATION FILED: 7-23-64, Dist. Colo., against Donald Tanner, t/a Tanner Flour Mills, Bayfield, Colo., and Halworth B. Tanner, manager.

SHIPPED: 12-6-62, from Colorado to New Mexico.

*See also No. 30037.

**See also No. 30006.

LABEL IN PART: (Bag) "5 Lbs. Bleached Enriched 8 Ozs. of Enriched Flour Supply Not Less Than The Following Proportions Of The Minimum Daily Requirements of: Thiamine 100%, Riboflavin 50%, Niacin 80%, and Iron 65%. Thiamine, Riboflavin and Niacin Are B Vitamins White Rose * * * Tanner Flour Mills, Bayfield, Colo."

CHARGE: 403(a)—when shipped, the statement "8 ozs. of Enriched Flour Supply Not Less Than The Following Proportions of The Minimum Daily Requirements of: Thiamine 100%, Riboflavin 50%, Niacin 80%, and Iron 65%," was false and misleading since 8 ozs. of the food contained less than the stated proportion of the minimum daily requirements for such ingredients; and 403(g)(1)—the article failed to conform to the definition and standard of identity for enriched flour since it contained in each pound less than the 2.0 mg. of thiamine, 1.2 mg. of riboflavin and 13.0 mg. of iron required by the definition and standard.

PLEA: Nolo contendere.

DISPOSITION: 2-12-65. Donald Tanner—\$1,000 fine, 1 year in prison suspended, and 2 years' probation; Halworth B. Tanner—\$1,000 fine, of which \$750 was suspended, 1 year in prison suspended, and probation for 2 years.

30009. Flour. (F.D.C. No. 50888. S. No. 16-813 A.)

QUANTITY: 408 100-lb. bags at Charlestown, Mass.

SHIPPED: 10-26-64, from Mankato, Minn.

RESULTS OF INVESTIGATION: Inspection of the article, when in the shipping railroad car, disclosed that the article was rodent contaminated during transportation.

LIBELED: 12-17-64, Dist. Mass.

CHARGE: 402(a)(3)—while in interstate commerce, the article contained rodent urine, rodent excreta pellets, a rodent nest, and mice, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-15-65. Consent—claimed by Boston and Maine Corp., Boston, Mass., and denatured for tanners' use only.

30010. Flour. (F.D.C. No. 50853. S. Nos. 135-908/9 A.)

QUANTITY: 98 100-lb. bags (pie flour) and 117 100-lb. bags (cake flour), at Atlanta, Ga., in possession of S. Paul Travis.

SHIPPED: 9-22-64 (cake flour) and 10-20-64 (pie flour), from Evansville, Ind.

LIBELED: 12-8-64, N. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent hairs (both lots) and rodent excreta pellets (pie flour); and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-28-64. Consent—claimed by S. Paul Travis and denatured.

30011. Flour. (F.D.C. No. 50961. S. No. 16-508 A.)

QUANTITY: 212 100-lb. bags at Bridgeport, Conn., in possession of Country Home Bakery Co.

SHIPPED: 9-14-64, from Buffalo, N.Y.

LIBELED: On or about 1-15-65, Dist. Conn.

CHARGE: 402(a)(3)—was rodent gnawed and contained rodent urine and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-16-65. Default—converted into animal feed.

30012. Flour. (F.D.C. No. 50790. S. Nos. 37-153 X, 74-109/11 A.)

INFORMATION FILED: 3-24-65, W. Dist. La., against Ritchie Grocer Co., a corporation, t/a Ardis-Richie Grocer Co., Shreveport, La., and Earl R. Robins, warehouse manager.

ALLEGED VIOLATIONS: Between 10-3-63 and 1-17-64, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused such flour to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-19-65. Corporation—\$400 fine; Robins—fine suspended.

30013. Flour. (F.D.C. No. 50824. S. Nos. 6-383/4 A, 6-388 A.)

INFORMATION FILED: 3-17-64, E. Dist., N.C., against Purdie Bros., Inc., Dunn, N.C.

ALLEGED VIOLATIONS: Between 4-20-63 and 8-26-64, while quantities of flour were being held for sale after shipment in interstate commerce, the defendant caused the article to be held in a building that was accessible to insects and to be exposed to contamination by insects which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained insects and insect parts; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-28-65. Corporation—\$1,000 fine.

30014. Flour. (F.D.C. No. 50934. S. No. 7-963 B.)

QUANTITY: 26 100-lb. bags at Sioux City, Iowa.

SHIPPED: 12-2-64, from Grand Forks, N. Dak.

LIBELED: 1-22-65, N. Dist. Iowa.

CHARGE: 402(a) (3)—contained insects and insect fragments while held for sale.

DISPOSITION: 2-25-65. Default—destruction.

30015. Flour. (F.D.C. No. 50776. S. Nos. 76-170/2 A.)

QUANTITY: 164 25-lb. bags at Marksville, La., in possession of Marksville Wholesale Corp.

SHIPPED: 10-6-64, from Salina, Kans.

LIBELED: 12-11-64, W. Dist. La.

CHARGE: 402(a) (3)—contained rodent urine, rodent hairs, and was rodent gnawed; and 402(a) (4)—held under unsanitary conditions.

DISPOSITION: 1-29-65. Default—destruction.

30016. Flour. (F.D.C. No. 50862. S. No. 17-324 A.)

QUANTITY: 113 100-lb. bags, at Charlestown, Mass., in possession of H. Rothstein & Co., Inc.

SHIPPED: 10-27-64, from Buffalo, N.Y.

LIBELED: 12-3-64, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-5-65. Consent—claimed by H. Rothstein & Co., Inc. Segregated; 94 bags destroyed as unfit.

30017. Flour. (F.D.C. No. 50770. S. No. 28-285 A.)

QUANTITY: 104 50-lb. bags at Appleton, Wis., in possession of S. C. Shannon Co.

SHIPPED: 10-1-64, from Minneapolis, Minn.

LIBELED: 12-9-64, E. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-6-65. Default—destruction.

30018. Flour and rice. (F.D.C. No. 50874. S. Nos. 113-129/30 A.)

QUANTITY: 23 100-lb. bags of flour and 4 100-lb. bags of rice at Salisbury, Md., in possession of T. L. Ruark & Co.

SHIPPED: 7-13-64 and 7-27-64, from Shiremanstown, Pa., and Stuttgart, Ark.

LIBELED: On or about 12-10-64, Dist. Md.

CHARGE: 402(a)(3)—the flour contained insects and the rice contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-6-65. Default—destruction.

30019. Flour. (F.D.C. No. 50904. S. No. 111-948 A.)

QUANTITY: 216 25-lb. bags, at Oklahoma City, Okla., in possession of Humpty-Dumpty Super Markets.

SHIPPED: 11-25-64, from Wichita, Kans.

LIBELED: 12-29-64, W. Dist. Okla.

CHARGE: 402(a)(3)—was rodent gnawed and contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-25-65. Default—destruction.

30020. Flour. (F.D.C. No. 50696. S. No. 16-650 A.)

QUANTITY: 15 100-lb. bags, at Milton, Mass.

SHIPPED: 9-24-64, from Buffalo, N.Y.

LIBELED: 11-5-64, Dist. Mass.

CHARGE: 402(a)(3)—contained insects, insect webbing, and insect excreta while held for sale.

DISPOSITION: 1-19-65. Default—destruction.

30021. Flour (2 seizure actions). (F.D.C. No. 50893. S. Nos. 94-303/4 A.)

QUANTITY: 166 100-lb. bags at St. Louis, Mo., in possession of General Grocer Co., Inc.

SHIPPED: 11-27-64, from Abilene, Kans.

LIBELED: 12-18-64, E. Dist. Mo.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-4-65. Default—delivered to a Government institution for use other than as human food.

30022. Flour. (F.D.C. No. 50767. S. Nos. 112-045/6 A.)

QUANTITY: 648 25-lb. bags and 85 100-lb. bags at Muskogee, Okla., in possession of Griffin Grocery Co.

SHIPPED: Between 9-5-64 and 11-13-64, from Topeka, Kans.

LIBELED: 12-4-64, E. Dist. Okla.

CHARGE: 402(a)(3)—the article was rodent gnawed, and contained rodent urine and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-4-65. Consent—claimed by Griffin Grocery Co. Segregated; 12,975 lbs. destroyed.

30023. Flour. (F.D.C. No. 49592. S. No. 56-123 X.)

QUANTITY: 750 100-lb. bags, at Chattanooga, Tenn., in possession of Turnbull Cone Baking Co.

SHIPPED: 11-21-63, from Chicago, Ill.

LIBELED: 1-9-64, E. Dist. Tenn.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-15-64. Consent—claimed by Turnbull Cone Baking Co. Segregated; 252 bags destroyed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS***30024. Shelled corn (for human use).** (F.D.C. No. 50759. S. No. 22-746 A.)

QUANTITY: 40 100-lb. bags, at Ellwood City, Pa., in possession of Leopardi Products, Inc.

SHIPPED: 9-23-64, from Williamsport, Ohio, by Heffner Grain Co.

RESULTS OF INVESTIGATION: Inspections of the Heffner Grain Co., and of Leopardi Products, Inc., showed that the article was held under insanitary conditions in both plants.

LIBELED: 12-1-64, W. Dist. Pa.

CHARGE: 402(a)(3)—when shipped and while held for sale, contained rodent urine and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-22-64. Default—destruction.

30025. Wheat. (Inj. No. 485.)

COMPLAINT FOR INJUNCTION FILED: 4-14-64, Dist. N. Dak., against Buxton Co-operative Grain Co., a corporation, Buxton, N. Dak., Wallace Nygaard, president, and Marvin Solberg, manager.

CHARGE: The complaint alleged that the defendants were engaged in the operation at Buxton, N. Dak., of a grain elevator facility which included a wooden crib-type elevator structure designated as Main House and No. 1 House, a wooden crib-type elevator structure designated as North House and No. 2 House, a 27,000-bushel capacity, flat-storage, Butler-type building, a 2,000-bushel capacity storage-tank and three 7,000-bushel capacity storage-tanks, for the storage and distribution of wheat for human consumption, and were introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4).

*See also No. 30018.

The complaint alleged further that the wheat consisted in part of a filthy substance by reason of the presence of rodent excreta ; that the wheat had been and was being held at the defendants' grain elevator facility at Buxton, N. Dak., under insanitary conditions whereby it may have become contaminated with filth thereby rendering the wheat adulterated within the meaning of 402(a) (3) and 402(a) (4), and that the insanitary conditions of the defendants' grain elevator facility at Buxton, N. Dak., resulted from and consisted of the following conditions :

(a) In the wooden crib-type elevator structure designated as North House and No. 2 House, on the surface of the wheat of the southeast corner bin No. 7, approximately 500, 50, 100, and 200 rodent pellets per square foot, respectively, at the four corners of bin No. 7, and in the surface wheat of bin No. 7 approximately 2,100 rodent pellets in 0.7 pints of such wheat ; on the surface of the wheat of the northeast corner bin No. 4, approximately 50, 10, 150, and 100 rodent pellets per square foot, respectively, at the four corners of bin No. 4, and in the surface wheat of bin No. 4, approximately 2,600 rodent pellets in 1.87 pints of such wheat ; on the surface of the wheat of the north side of middle bin No. 3, approximately 50 and 200 rodent pellets per square foot at two of the four corners of bin No. 3, and in the surface wheat of bin No. 3 approximately 500 rodent pellets in 1.7 pints of such wheat ; on the surface of the wheat of the southwest corner bin No. 10, approximately 40 rodent pellets per square foot at one corner of bin No. 10 ; on the surface of the wheat of the south side of middle bin No. 9, approximately 300, 20, 30, and 10 rodent pellets per square foot, respectively, at the four corners of bin No. 9 ; and on the main floor, adjacent to the west door, 2 dead mice, approximately 1,000 rodent pellets in a 3-foot square area, approximately 30 bird droppings on the floor and the window sill, a broken pane in the window above the bird droppings ; and

(b) In the wooden crib-type elevator structure designated as Main House and No. 1 House, a small door containing holes as large as 1' x 2' at the north end of the head house, broken siding leaving a hole approximately 1' x 6' at the east end of the head house near the man-lift, a broken door leaving a crack approximately 1' x 5' at the south end of the head house, a 1' x 8' crack in the screen on the east end of the gallery, approximately 15 rodent pellets per square foot along the main floor's west door, approximately 30 bird droppings next to the dump pit, 3 live sparrows above the dump pit, 2 dead mice in a corner south of the Carter Cleaner, a new sliding door at the north end of the dump pit with a crack 2' x 3' wide along its length, and approximately 10 rodent pellets in a pile of wheat in the north-west corner of the south room.

The complaint alleged also that the defendants were well aware that their activities were in violation of the law, that inspections of the defendants' grain elevator facility at Buxton, N. Dak., were made on 11-8-61, 9-6-62, and 1-17/18-64, by inspectors of the Food and Drug Administration, that the activity of rodents and birds was readily observable and the defendants were so advised, and that despite the warnings conveyed to the defendants by the aforesaid inspections, the defendants had failed to correct the above insanitary conditions.

DISPOSITION : On 4-14-64, a temporary restraining order was entered which temporarily restrained and enjoined the defendants from directly or indirectly

introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, wheat for human consumption and any similar article of food which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance, and within the meaning of 402(a)(4) in that it had been held under insanitary conditions whereby it may have become contaminated with filth, and from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, wheat for human consumption and any similar article of food held at defendants' grain elevator facility at Buxton, N. Dak., unless and until:

(a) the facility was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, unless and until all rodent and bird filth were removed from the facility; all rodent and bird infestation in and about the facility was eliminated; the means of ingress and egress of the facility by rodents and birds were closed; and any similar insanitary conditions which may result in wheat for human consumption and any similar article of food being contaminated with filth while held at the facility were eliminated; and

(b) all of the wheat which was on hand at the facility at the time the facility was cleaned, renovated and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision paid by the defendants.

On 5-12-64, the Government and the defendants stipulated in part, that the defendant, Buxton Co-Operative Grain Co., had determined to abandon and discontinue the use of the wooden crib-type elevator structure designated as North House and No. 2 House and in those circumstances to require that this portion of defendant's facility be cleaned, renovated, and rendered suitable for the storage of wheat or other articles for human consumption imposed an unnecessary hardship upon the defendants, and that all grain heretofore stored in the North House or No. 2 House had been removed from the structure and was now ready for shipment upon approval of the conditions thereof by the Food and Drug Administration, Department of Health, Education, and Welfare.

On 5-15-64, the court, pursuant to the above stipulation, ordered that the requirements for the cleaning, renovation, and rendering suitable of the facility known as the North House or No. 2 House were eliminated from the restraining order, and the wheat which was on hand and which had been stored in the North House or No. 2 House might be shipped in interstate commerce if and when the same shall have been cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare under all the terms and conditions of paragraph (b) of the temporary restraining order.

In compliance with the order of the court, the defendants corrected the deficiencies of the Main House and removed and cleaned all the wheat in the North House. The defendants thereafter discontinued use of the North House for grain storage and the temporary restraining order was dismissed.

30026. Wheat. (F.D.C. No. 50063. S. No. 57-565 A.)

QUANTITY: 116,400 lbs. at Kansas City, Kans.

SHIPPED: 4-18-64, from Bronson, Nebr., by Demers & Son.

LIBELED: 4-30-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-20-64. Consent—claimed by Demers & Son, Sunol, Nebr. Reconditioned; 28,460 lbs. destroyed.

30027. Wheat. (F.D.C. No. 50059. S. No. 58-721 A.)

QUANTITY: 120,000 lbs., at Kansas City, Mo.

SHIPPED: 4-6-64, from Voda, Kans., by Standard Milling Co.

LIBELED: 4-24-64, W. Dist. Mo.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 4-28-64. Consent—claimed by Standard Milling Co., Kansas City, Mo. Segregated and reconditioned; 83,210 lbs. destroyed.

30028. Wheat. (F.D.C. No. 50758. S. No. 111-044 A.)

QUANTITY: 120,000 lbs. at Council Bluffs, Iowa.

SHIPPED: 11-11-64, from St. Francis, Kans., by Bartlett & Co., Grain.

LIBELED: 11-30-64, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-21-64. Consent—claimed by Bartlett & Co., Grain, and denatured.

30029. Wheat. (F.D.C. No. 51181. S. Nos. 8-623/4 B.)

QUANTITY: 250,800 lbs. at Kansas City, Kans.

SHIPPED: 4-20-65 and 4-21-65, from McDonald, Kans., by McDonald Grain Co., to Hastings, Nebr., and subsequently reshipped.

LIBELED: 5-10-65, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-damaged kernels when shipped.

DISPOSITION: 5-19-65. Consent—claimed by Simonds-Shields-Theis Grain Co., and denatured for use as feed.

30030. Wheat. (F.D.C. No. 49833. S. No. 71-897 A.)

QUANTITY: 90,000 lbs., at Minneapolis, Minn.

SHIPPED: 2-12-64, from Ray, N. Dak., by Ray Farmers Union Elevator Co.

LIBELED: 3-10-64, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption for such pesticide chemical in wheat had been prescribed by regulations.

DISPOSITION: On 4-8-64, the article having been claimed by Ray Farmers Union Elevator Co., Ray, N. Dak., there was filed a consent decree of condemnation permitting, under bond, the reconditioning or other disposition of the article.

On 4-2-65, the claimant having failed to comply with the terms of the decree of 4-8-64, and the third extension of time within which to comply with that decree having expired, the court ordered the article destroyed.

30031. Wheat. (F.D.C. No. 50039. S. No. 56-227 A.)

QUANTITY: 241,040 lbs. at Council Bluffs, Iowa.

SHIPPED: 3-11-64 and 3-20-64, from Crete, Nebr., and Benedict, Nebr.

LIBELED: 4-3-64, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent excreta pellets while held for sale.

DISPOSITION: 6-26-64. Consent—claimed by Bartlett & Co. Grain, Council Bluffs, Iowa. Reconditioned; 23,950 lbs. destroyed.

30032. Wheat. (F.D.C. No. 50215. S. Nos. 66-116 A, 71-012 A.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-28-64, from Havre, Mont., by Farmers Grain Exchange.

LIBELED: 5-27-64, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption for mercurial compounds on wheat had been prescribed by regulations.

DISPOSITION: The article was claimed by Farmers Grain Exchange and a consent decree of condemnation was entered on 6-22-64, providing for reconditioning. The time for compliance expired and on 12-23-64, an order of destruction was entered by the court.

30033. Wheat cereal. (F.D.C. No. 50486. S. No. 28-284 X.)

INFORMATION FILED: 10-9-64, Dist. Kans., against Herbert C. Jones, t/a Jones Milling Co., Wichita, Kans.

SHIPPED: 7-10-63, from Wichita, Kans., to St. Joseph, Mo.

LABEL IN PART: (Bag) "JONES Klean Kracked Wheat cereal Net Wt. 2 Lbs. Jones Milling Co., Wichita 5, Kansas."

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-19-65. \$250 fine.

30034. Raised Donut base. (F.D.C. No. 50732. S. No. 65-236 A.)

QUANTITY: 11 100-lb. bags, at Whittier, Calif., in possession of Dolan Donuts.

SHIPPED: 8-4-64, from Portland, Oreg.

LIBELED: 11-9-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect webbing; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-2-64. Default—destruction.

30035. Raised Donut base. (F.D.C. No. 50741. S. No. 65-237 A.)

QUANTITY: 167 100-lb. bags, at Los Angeles, Calif., in possession of Flour, Inc.

SHIPPED: 8-12-64, from Portland, Oreg.

LIBELED: 11-17-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-9-64. Default—destruction.

DAIRY PRODUCTS

BUTTER

30036. Butter. (F.D.C. No. 50192. S. Nos. 69-559 A, 70-653 A.)

QUANTITY: 45 64-lb. boxes at Chicago, Ill.

SHIPPED: 9-9-64, from Dickinson, N. Dak., by Western Creamery Association.

LABEL IN PART: (Box) "Creamery Butter Distributed by H. C. Christians Co. Chicago, Illinois."

LIBELED: 9-16-64, N. Dist. Ill.

CHARGE: 402(b)(2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter when shipped.

DISPOSITION: 11-4-64. Consent—claimed by H. C. Christians Co., Chicago, Ill., and reworked.

MISCELLANEOUS DAIRY PRODUCT

30037. Nonfat dry milk and cornmeal. (F.D.C. No. 50477. S. Nos. 56-923/5 A.)

INFORMATION FILED: 9-28-64, Dist. Kans., against Associated Wholesale Grocers, Inc., Kansas City, Kans., Louis Fox, general manager, and W. John Russell, superintendent.

ALLEGED VIOLATION: Between 6-13-63 and 1-13-64, while quantities of nonfat dry milk (count 1), yellow cornmeal (count 2), and white cornmeal (count 3) were being held for sale after shipment in interstate commerce, the articles were caused to be held in a building that was infested by insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty by corporation to counts 1, 2 and 3, and by the individuals to count 1.

DISPOSITION: 2-5-65. Individuals fined \$25 each; corporation fined \$200, and costs.

EGGS

30038. Frozen eggs. (F.D.C. No. 50167. S. No. 8-036 V.)

INFORMATION FILED: 12-15-64, Dist. Mass., against Saul F. Fleishman, t/a Fleishman & Co., Roxbury (Boston), Mass.

SHIPPED: Between 4-17-63 and 4-27-63, from Roxbury (Boston), Mass., to Newport, R.I.

LABEL IN PART: (Cans) "Whole Eggs Fleishman & Co. 165 Terrace St., Boston, 20."

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs.

PLEA: Guilty.

DISPOSITION: 4-26-65. \$500 fine.

30039. Frozen eggs. (F.D.C. No. 49492. S. No. 65-422 X.)

QUANTITY: 664 30-lb. cans at Miami, Fla.

SHIPPED: 10-14-63, from outside the State of Florida, by Jake Klempf.

LABEL IN PART: (Can) "Whole Eggs * * * Produced by Flintridge Egg Farms, Inc. The Rock, Georgia."

LIBELED: 11-4-63, S. Dist. Fla.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-31-64. Consent—claimed by Flintridge Egg Farms, Inc., The Rock, Ga., and denatured for use as animal feed.

30040. Frozen eggs, dried egg yolk solids, and dried eggs (2 seizure actions).

(F.D.C. Nos. 49843; 49921. S. Nos. 103-311/12 A; 103-228/9 A, 103-304 A, 103-307/8 A, 103-310 A.)

QUANTITY: 1,347 30-lb. cans of frozen whole eggs, 55 100-lb. boxes of dried egg yolk solids, and 20 100-lb. boxes of dried whole eggs, at Spokane, Wash.

SHIPPED: The dried egg yolk solids and dried whole eggs were shipped on 7-21-63, from Spokane, Wash., to Portland, Oreg., by Commercial Creamery Co., and returned to Spokane on 11-19-63. The frozen whole eggs were shipped between 7-9-63 and 9-18-63, from Salt Lake City, Utah, and Lindsay, Turlock, Carlsbad, and Lathrop, Calif., by Salt Lake Egg Co., Marlow Egg Farms, Rainbow Farms, Marja Acres, and (unlabeled cans) Olson Bros., Inc.

LABELS IN PART: (Cans) "Whole Eggs * * * Salt Lake Egg Co. * * * Salt Lake City, Utah," "Marlow's Frozen Whole * * * Fresh Eggs * * * Lindsay, California," "Frozen Whole Eggs * * * Rainbow Farms Turlock, Calif.," "Whole Eggs * * * Marja Acres Carlsbad California Kornoff [or "Kent Ranch * * * Escondido, Calif."]; and (boxes) "Washington State Brand Egg Yolk Solids [or "Whole Egg Solids"] Commercial Creamery Co. Spokane, Washington."

LIBELED: 3-20-64, E. Dist. Wash.

CHARGE: 402(a)(1)—when shipped, the dried egg yolk solids and the dried whole eggs contained an added poisonous or deleterious substance, *Salmonella* micro-organisms (pathogenic bacteria), which may render the article injurious to health; and 402(a)(3)—the frozen eggs contained decomposed eggs.

DISPOSITION: 5-25-64. Consent—claimed by Commercial Creamery Co., Spokane, Wash. The dried egg yolk solids and the dried whole eggs were reconditioned by reprocessing; the frozen eggs were segregated and reconditioned—460 cans destroyed.

30041. Frozen eggs. (F.D.C. No. 50721. S. No. 109-023 A.)

QUANTITY: 110 30-lb. cans at Louisville, Ky.

SHIPPED: 8-4-64, from Sauk Centre, Minn., by Swift & Co.

LABEL IN PART: (Can) "Swift's Brookfield Frozen Whole Eggs * * * Distributed by Swift and Company General Office Chicago, Illinois."

LIBELED: 10-19-64, W. Dist. Ky.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, *Salmonella* micro-organisms (pathogenic bacteria) which may render the article injurious to health.

DISPOSITION: 1-4-65. Default—destruction.

30042. Frozen eggs. (F.D.C. No. 50933. S. No. 22-760 A.)

QUANTITY: 42 30-lb. cans, at Pittsburgh, Pa.

SHIPPED: 2-27-64, from Greensburg, Ind., by Vines Egg Co., Inc.

LABEL IN PART: (Can) "Packed By Vines Egg Co., Inc. * * * Greensburg, Ind."

LIBELED: 1-25-64, W. Dist. Pa.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which might render them injurious to health; and 402(a)(3)—contained decomposed eggs.

DISPOSITION: 2-18-65. Default—destruction.

30043. Frozen egg whites. (F.D.C. No. 50748. S. No. 22-232 A.)

QUANTITY: 200 30-lb. cans at Pittsburgh, Pa.

SHIPPED: 9-29-64, from Wakefield, Nebr., by Milton G. Waldbaum Co.

LABEL IN PART: (Can) "Wakefield Brand Egg Whites Quick Frozen * * * Packed by Milton G. Waldbaum Co. Wakefield Nebraska."

LIBELED: 11-23-64, W. Dist. Pa.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms.

DISPOSITION: 12-21-64. Default—destruction.

FISH AND SHELLFISH

30044. Frozen pollock. (F.D.C. No. 49702. S. Nos. 15-253/4 V, 17-521/2 V, 24-111/13 V, 24-830 V.)

INDICTMENT RETURNED: 11-19-64, N. Dist. Ill., against Pick-Shapiro Fisheries, Inc., Chicago, Ill., Robert Shapiro, president, Erwin Pick, vice president, and Meyer Pick, secretary.

SHIPPED: Between 10-9-62 and 10-22-62, from Chicago, Ill., to Indiana.

LABEL IN PART: (Cases) "Haddock 4 oz. Raw Portions," (some wood cases) "Hadd Port," (cases) "Cod 4 oz. Portions," "Cod Sticks 16 to LB," and "Perch 4 Oz. Portions."

RESULTS OF INVESTIGATION: Examination revealed the fish in all instances to be pollock.

CHARGE: 403(a)—when shipped, the label statements "haddock," "perch," and "cod," were false and misleading; and 403(b)—pollock was offered for sale under the names of other fish, namely, haddock, perch, and codfish.

PLEA: Guilty.

DISPOSITION: 4-2-65. Each individual—\$1,000 fine, and 15 minutes in prison; corporation—\$500 fine.

30045. Frozen fish fillets. (F.D.C. No. 50519. S. No. 15-789 A.)

QUANTITY: 80 cases, each containing 6 10-lb. ctns., at Alameda, Calif.

SHIPPED: 8-7-64, from Boston, Mass., by North Atlantic Fish Co.

LABEL IN PART: (Ctn.) "North Atlantic Quick Frozen Fillets * * * North Atlantic Fish Company Boston"; (cello wrap) "North Atlantic Small Frosted Haddock Fillet Packed By North Atlantic Fish Co. Boston Mass. * * * To Be Weighed At Time of Sale."

LIBELED: 9-11-64, N. Dist. Calif.

CHARGE: 402(a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 10-7-64. Default—destruction.

30046. Frozen haddock fillets. (F.D.C. No. 50665. S. No. 89-153 A.)

QUANTITY: 44 ctns., each containing 10 5-lb. pkgs., at Philadelphia, Pa.

SHIPPED: 8-27-64, from New Bedford, Mass., by Ell Vee Dee, Inc.

LABEL IN PART: (Wrapper label) "ell vee dee Brand Ready To Cook Quick Frozen Atlantic Ocean Haddock Fillets * * * Packed and Distributed by Ell Vee Dee, Inc., Greene & Wood Pier, New Bedford, Mass."

LIBELED: 10-20-64, E. Dist. Pa.

CHARGE: 402(b) (2)—when shipped, codfish fillets had been substituted for haddock fillets; 403(a)—the label statement "Haddock Fillets" was false and misleading as applied to a product consisting wholly or in part of fillets of codfish; and 403(b)—fillets of codfish had been offered for sale under the name of another food, namely, haddock fillets.

DISPOSITION: 12-9-64. Consent—claimed by Ell Vee Dee, Inc., New Bedford, Mass., and relabeled.

30047. Canned shrimp. (F.D.C. No. 50325. S. Nos. 62-987 A, 62-989 A.)

QUANTITY: 142 cases, of 24 cans each, at Phoenix, Ariz.

SHIPPED: 12-29-62 and 3-26-63, from Seattle, Wash., by East Point Seafood Co.

LABEL IN PART: (Can) "Bendiksen's East Point Tiny West Coast Shrimp * * * Net Drained Weight 4½ Oz. Avoir. * * * Packed by East Point Seafood Co. Seattle, Wash."

RESULTS OF INVESTIGATION: Examination showed that the drained weight of the article was less than represented.

LIBELED: 7-2-64, Dist. Ariz.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "Net Drained Weight 4½ Oz." was inaccurate; 403(h) (2)—the article fell below the standard of fill of container for canned wet pack shrimp in non-transparent containers, since the containers of the article were so filled that the cut-out weight of shrimp taken from each can was less than 64 percent of the water capacity of the container, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: 11-25-64. Default—delivered to a charitable organization.

30048. Canned shrimp. (F.D.C. No. 50514. S. No. 72-536 A.)

QUANTITY: 42 cases, each containing 24 4½-oz. cans, at Harvey, La.

SHIPPED: 6-1-64, from Palacios, Tex.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 8-28-64, E. Dist. La.

CHARGE: 402(a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 1-11-65. Default—destruction.

30049. Frozen breaded shrimp. (F.D.C. No. 50246. S. No. 96-136 A.)

QUANTITY: 152 36-lb. cases, at Modesto, Calif.

SHIPPED: 5-14-64, from Corpus Christi, Tex., by H. Morgan Daniel Seafoods, Inc.

LABEL IN PART: (Case) "Breaded Shrimp Count 36-38 Net Gross Code A1 * * *
Packed by H. Morgan Daniel Seafoods, Inc., Corpus Christi, Texas."

LIBELED: 7-1-64, N. Dist. Calif.

CHARGE: 402(a) (3)—when shipped, contained excessive coliforms and coagulase positive staphylococci and a high total bacterial count; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-27-64. Consent—claimed by shipper. Reconditioned and segregated; 60 lbs. destroyed as unfit.

30050. Frozen shrimp. (F.D.C. No. 49588. S. No. 73-901 X.)

QUANTITY: 122 cases, each containing 50 5-lb. ctns., and some unlabeled pkgs., at New Orleans, La.

SHIPPED: On or about 6-1-63, from New York, N.Y.

LIBELED: 1-10-64, E. Dist. La.

CHARGE: 402(a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 1-27-65. No claimant having appeared and 10 cases of the article under seizure having been found to be not adulterated, the court ordered that the libel be dismissed as to the 10 cases and entered a default decree of condemnation and destruction as to the remaining 112 cases under seizure.

30051. Frozen shrimp. (F.D.C. No. 50735. S. Nos. 70-620 A, 123-420 A.)

QUANTITY: 4 cases, each containing 10 5-lb. ctns., at Minneapolis, Minn.

SHIPPED: 10-5-64, from Winnipeg, Canada, by Neptune's Fisheries.

LABEL IN PART: (Ctn.) "Costa Bella White Shrimp * * * Packed By Empacadora Santa Marta, Ltda, Buenaventura, Columbia."

LIBELED: 11-16-64, Dist. Minn.

CHARGE: 402(a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 1-5-65. Default—destruction.

FRUITS AND VEGETABLES

FROZEN FRUIT

30052. Frozen strawberries. (F.D.C. No. 50229. S. Nos. 86-344/5 A.)

QUANTITY: 520 30-lb. cans at Memphis, Tenn.

SHIPPED: 5-18-64 and 5-19-64, from Wilson, Ark., by Breyer Ice Cream Div., National Dairy Products Corp.

LABEL IN PART: (Can) "Strawberry Sliced. * * * Breyer Ice Cream Div. Wilson Ark."

LIBELED: 6-12-64, W. Dist. Tenn.

CHARGE: 402(a) (3)—contained decomposed strawberries when shipped.

DISPOSITION: The article was claimed by Breyer Ice Cream Div., Sealtest Foods Div., of National Dairy Products Corp., who later withdrew its claim. A default decree of condemnation was then entered on 12-23-64, and the article was converted for use as animal feed at a public institution.

MISCELLANEOUS FRUIT PRODUCT

30053. Strawberry puree. (F.D.C. No. 50252. S. No. 68-189 A.)

QUANTITY: 138 cases, each containing 6 3-qt. cans, at Fargo, N. Dak.

SHIPPED: 6-2-64, from Humboldt, Tenn., by J. Hungerford Smith Co.

LABEL IN PART: (Case) "J. Hungerford Smith's * * * Humboldt—Strawberry Puree Sweetened * * * Rochester, N.Y. Humboldt, Tenn. Modesto, Calif." and (can) "J. Hungerford Smith's Cream-Pak Brand Humboldt * * * Strawberry Puree."

LIBELED: 7-9-64, Dist. N. Dak.

CHARGE: 402(a)(3)—contained decomposed strawberries when shipped.

DISPOSITION: 8-31-64. Default—destruction.

PRESERVES

30054. Fig preserves. (F.D.C. No. 50723. S. No. 72-877 A.)

QUANTITY: 67 cases, each containing 12 14½-oz. jars, at Montgomery, Ala.

SHIPPED: 9-13-64, from League City, Tex., by J. Garth Co.

LABEL IN PART: (Jar) "Sunday Dinner Brand Famous Old Fashion Preserved Figs * * * Packed for Schloss & Kahn, Inc., Montgomery, Ala."

RESULTS OF INVESTIGATION: The articles contained approximately 62.5 percent of soluble solids.

LIBELED: 11-2-64, M. Dist. Ala.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for fig preserves as prescribed by regulations since it contained less than 65 percent soluble solids as determined by the method prescribed in the definitions and standard.

DISPOSITION: On or about 12-7-64, Schloss & Kahn, Inc., filed a claim of ownership. On 1-16-65, the Government served interrogatories and a request for admissions. On 2-2-65, upon consent of the claimant, a consent decree of condemnation was filed and the article was subsequently relabeled as "Imitation Fig Preserves."

VEGETABLES AND VEGETABLE PRODUCTS

30055. Dried pinto beans, Great Northern beans, and red beans. (Inj. No. 498.)

COMPLAINT FOR INJUNCTION FILED: 9-16-64, Dist. Idaho, against Pearl F. Ahlquist, t/a Wendell Elevator Co., Wendell, Idaho, and Melvin L. Gates, Charles E. Freeman, and Blair Smith, manager, bookkeeper, and warehouseman, respectively, of the Wendell Elevator Co.

CHARGE: The complaint alleged that the defendants were engaged in receiving, storing, processing, bagging, and introducing and causing to be introduced into interstate commerce and delivering and causing to be delivered for introduction into interstate commerce, pinto beans, Great Northern beans, and red beans for human consumption which were adulterated within the meaning of 402(a)(3) because of the presence of rodent urine and/or rodent excreta pellets, and within the meaning of 402(a)(4) because they had been prepared, packed, or held at the plant of the Wendell Elevator Co. under insanitary conditions..

It was alleged further that the insanitary conditions of the Wendell Elevator Co.'s plant resulted from and consisted of the presence of the following:

A. Contamination by rodents of all lots of said food, to wit: (1) Rodent urine and/or rodent excreta pellets on approximately 18 percent of the bags examined of a 2,184-bag lot of pinto beans, and rodent urine on the beans inside the bags. (2) Rodent urine and/or rodent excreta pellets on approximately 16 percent of the bags examined of a 7,900-bag lot of pinto beans, and rodent urine on the beans inside the bags. (3) Rodent urine and/or rodent excreta pellets on approximately 39 percent of the bags examined of a 4,312-bag lot of Great Northern beans, rodent-gnawed bean fragments across the bags, and rodent urine on the beans inside the bags. (4) Rodent urine and/or rodent excreta pellets on approximately 18 percent of the bags examined of a 2,437-bag lot of red beans, and rodent urine on the beans inside the bags. B. Insanitary conditions proximate to the beans: (1) Adjacent to bags of pinto beans near the east wall of said upper bean warehouse section of the plant approximately 92 rodent pellets in an 8'' x 18'' area, approximately 89 rodent pellets within 6 inches of one of the bags of pinto beans, and a dead mouse within 15 feet of the bags of pinto beans. (2) Adjacent to stacked bags of pinto beans in the upper bean warehouse section of said structure, approximately 52 rodent pellets on an 8'' x 18'' length of crossbeam. (3) Adjacent to bags of red beans, mouse tracks and approximately 55 rodent pellets, in the dust, on an 8'' x 16'' area of a crossbeam. C. Other insanitary conditions: (1) Three holes permitting the access of rodents, in the plant's south wall. (2) Five dead mice and one dead cat in the basement near the doorway to the upper bean warehouse section. (3) Rodent harborage, rodent holes, and numerous rodent excreta pellets in the basement. (4) One dead rabbit, bean spillage, mouse tracks, and piles of lumber near the boots of the bean legs. (5) Rodent excreta pellets adjacent to the small open north door into the lower bean warehouse section. (6) Hole permitting the access of rodents into lower bean warehouse section, mouse pellets adjacent to such hole, and one dead cat in that vicinity. (7) Sparrows feeding on the wheat spillage about the open dump pit doors adjacent to said elevator section. (8) Spillage of beans adjacent to bean processing equipment on the second floor. (9) Unwashed beans bearing evidence of rodent urine being rebagged. (10) Approximately 100 rodent excreta pellets per foot near the walls of various sections of the plant which had not been swept recently.

DISPOSITION: 9-24-64. The defendants having consented, the court entered a decree of permanent injunction which provided as follows: That the defendants, and each and all of their officers, agents, servants, employees, representatives, and all and any persons in active concert or participation with them be perpetually restrained and enjoined from directly or indirectly doing any of the following acts: (1) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of 301(a), any pinto beans, Great Northern beans, and red beans for human consumption, or any similar article of food, which were adulterated within the meaning of 402(a) (3) in that they consisted in part of a filthy substance, or which were adulterated within the meaning of 402(a) (4) in that they had been held under insanitary conditions whereby they might have become contaminated with filth; and (2) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, any pinto beans, Great Northern beans, and red beans, for human consumption, or any similar article of food, processed or held in the defendants' frame and sheet-metal warehouse and elevator structure at Wendell, Idaho, unless and until (a) said structure was thoroughly cleaned and ren-

dered suitable for use in connection with the processing and storage of pinto beans, Great Northern beans, and red beans for human consumption and any similar article of food, to wit, unless and until all rodent infestation in and about said structure was eliminated, the means of ingress and egress of said structure by rodents, rabbits, cats, and birds were closed, and any similar insanitary conditions which might result in pinto beans, Great Northern beans, or red beans for human consumption being contaminated with filth while processed or stored in said structure were eliminated, and (b) all of the pinto beans, Great Northern beans, and red beans which were on hand in said structure at the time said structure was cleaned, renovated, and rendered suitable for the processing and storing of food for human consumption, were destroyed, denatured for use as animal feed, cleaned, or reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision paid by the defendants.

30056. Dried pinto beans. (F.D.C. No. 50502. S. No. 98-449 A.)

QUANTITY: 420 100-lb. bags at Stockton, Calif., in possession of Valley Bean Warehouse, Inc.

SHIPPED: 7-1-64, from Twin Falls, Idaho.

LBELED: 8-18-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-6-64. Consent—claimed by Klein Bros., Inc., Stockton, Calif., and denatured for use as seed.

30057. Dried pinto beans. (F.D.C. No. 50250. S. No. 96-801 A.)

QUANTITY: 430 100-lb. bags at Manteca, Calif.

SHIPPED: 5-21-64, from Wendell, Idaho, by Shields.

LABEL IN PART: (Bag) "Pinto Beans Packed by Wendell Elevator Co. Wendell, Idaho."

RESULTS OF INVESTIGATION: Inspection of packer, Wendell Elevator Co., Wendell, Idaho, showed article had been held prior to shipment in a rodent-infested warehouse.

LBELED: 7-9-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-5-64. Consent—claimed by James T. Shields, James H. Shields, Jr., and Jane Shields Redman, t/a Shields, a partnership, Buhl, Idaho. Segregated and reconditioned; 400 lbs. destroyed.

30058. Dried Great Northern beans. (F.D.C. No. 50241. S. Nos. 96-802/3 A.)

QUANTITY: 430 100-lb. bags at Manteca, Calif., in possession of Manteca Bean Co.

SHIPPED: 3-16-64, from Buhl, Idaho.

LBELED: 6-29-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-5-64. Consent—claimed by James T. Shields, James H. Shields, Jr., and Jane Shields Redman, t/a Shields, a partnership, Buhl, Idaho, and reconditioned.

30059. Dried Great Northern beans. (F.D.C. No. 50499. S. No. 98-448 A.)

QUANTITY: 440 100-lb. bags at Stockton, Calif., in possession of Valley Bean Warehouse, Inc.

SHIPPED: 4-16-64, from Milner, Idaho.

LIBELED: 8-10-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-6-64. Consent—claimed by Bean Growers Association, Inc., Twin Falls, Idaho. Segregated and reconditioned; 400 lbs. segregated as unfit.

30060. Canned mixed vegetables (2 seizure actions). (F.D.C. Nos. 50719; 50752. S. Nos. 35-882/3 A; 128-215 A.)

QUANTITY: 876 cases, of 6 cans each, at Cincinnati, Ohio; and 232 cases, of 6 cans each, at Toledo, Ohio.

SHIPPED: Between 8-29-64 and 8-31-64, from Green Bay, Wis.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 10-14-64, S. Dist. Ohio; 11-27-64, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-24-64; 12-24-64. Consent—claimed by the Larsen Co., Green Bay, Wis. Segregated; 413 cans destroyed.

30061. Celery. (F.D.C. No. 50737. S. No. 64-225 A.)

QUANTITY: 340 crates containing 36 stalks, and 200 crates containing 30 stalks, at Nashville, Tenn.

SHIPPED: 11-3-64, from Norwalk, Calif., by Marshburn Farms.

LABEL IN PART: (Crate) "California Celery Marshburn Growers, Packers, Shippers * * * Norwalk, Calif."

RESULTS OF INVESTIGATION: Examination indicated that the article contained approximately 9.4 ppm. of toxaphene and approximately 4.5 ppm. of DDT.

LIBELED: 11-13-64, M. Dist. Tenn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained pesticide chemicals, toxaphene and DDT, which were unsafe within the meaning of 408(a), since the total quantity of such pesticide chemicals on the articles was not within the limits of tolerance prescribed by regulations.

DISPOSITION: 11-23-64. Default—destruction.

30062. Parsley. (F.D.C. No. 49675. S. No. 77-756 X.)

QUANTITY: 400 crates, each containing 5 dozen bunches, at New York, N.Y.

SHIPPED: 12-11-63, from Weslaco, Tex., by J. S. McManus Produce Co.

LABEL IN PART: (Crate) "Packed and Shipped by J. S. McManus Produce Co. Main Office Weslaco, Texas SHIRLEY VEGETABLES Produce of U.S.A. * * * Curley Parsley."

LIBELED: On or about 1-2-64, S. Dist. N.Y.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, endrin, which was unsafe within the meaning of 408(a) since no tolerance or exemption for such pesticide chemical on parsley had been prescribed by regulations.

DISPOSITION: 2-4-64. Default—destruction.

30063. Hot chili mix. (F.D.C. No. 49412. S. No. 28-286 X.)

QUANTITY: 25 cases, each containing 12 1-pt. jars, at Kansas City, Mo.

SHIPPED: 9-6-63, from Rosemead, Calif., by La Victoria Foods, Inc.

LABEL IN PART: (Jar) "La Victoria Brand Hot Chili Mix * * * Packed by La Victoria Foods, Inc., Rosemead, Calif."

LIBELED: On or about 10-10-63, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-5-63. Default—destruction.

30064. Sweet pickles and cucumbers. (F.D.C. No. 50716. S. Nos. 68-075/76 A, 68-078 A.)

QUANTITY: 145 gals. of sweet pickles; 130 bushels of cucumbers in unlabeled salting tank No. 40; and 150 bushels of cucumbers in unlabeled salting tank No. 32; at Minneapolis, Minn., in possession of Pa-Wray Pickle Co., Inc.

SHIPPED: Between 1-1-63 and 8-30-63, from Wautoma, Wis.

RESULTS OF INVESTIGATION: The articles had been shipped as fresh cucumbers and had been placed in brine and processed by the dealer.

LIBELED: 10-9-64, Dist. Minn.

CHARGE: 402(a)(3)—contained insects, maggots, and insect fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-20-64. Consent—claimed by Pa-Wray Pickle Co. The sweet pickles were destroyed; the other articles were reconditioned and segregated; 13 bushels of cucumbers were destroyed.

30065. Sweet mixed pickles and sweet pickle chips. (F.D.C. No. 49694. S. Nos. 31-411 X, 31-423 X.)

INFORMATION FILED: 4-30-64, against David Neiman, t/a Finer Made Pickle Co., Los Angeles, Calif.

ALLEGED VIOLATIONS: Between 5-20-63 and 6-6-63, adulterated sweet mixed pickles were shipped to Las Vegas, Nev., from Los Angeles, Calif. On 1-24-62, the defendant gave to a firm engaged in the business of shipping various foods, including pickle products, in interstate commerce, a guaranty that all merchandise sold and delivered to such firm by the defendant was not adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act. On 8-5-63, the defendant caused a number of jars of sweet pickle chips which were adulterated to be delivered at Los Angeles, Calif., to the holder of the guaranty.

LABEL IN PART: (Jars) "Finer Made Net Contents 1 gal. Sweet Mixed Pickles Packed By Finer Made Pickle Co. Los Angeles, Calif.," and "Golden Ray SWEET PICKLE CHIPS."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-23-64. \$2,000 fine.

TOMATOES AND TOMATO PRODUCTS

30066. Canned tomatoes. (F.D.C. No. 50667. S. No. 58-428 A.)

QUANTITY: 944 cases, each containing 24 1-lb. cans, at Concordia, Kans.

SHIPPED: 9-9-64, from Reeds Spring, Mo., by Emerson Canning Co.

LABEL IN PART: (Can) "Emerson Brand Tomatoes * * * Packed by Emerson Canning Co. Reeds Spring, Mo."

LIBELED: 10-27-64, Dist. Kans.

CHARGE: 402(a) (3)—contained fly eggs and maggots; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-29-64. Default—destruction.

30067. Canned tomatoes. (F.D.C. No. 50742. S. No. 93-616 A.)

QUANTITY: 527 cases, each containing 24 1-lb. cans, at Little Rock, Ark.

SHIPPED: 10-19-64, from Reeds Spring, Mo., by Emerson Canning Co.

LABEL IN PART: (Can) "Gardenside Tomatoes Distributed By Regent Food Company, Oakland, California."

LIBELED: 11-18-64, E. Dist. Ark.

CHARGE: 402(a) (3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 1-14-65. Default—delivered to a charitable institution for use as animal feed.

30068. Canned tomatoes. (F.D.C. No. 50915. S. No. 23-561 A.)

QUANTITY: 194 cases, each containing 24 1-lb. 11-oz. cans, at Utica, N.Y.

SHIPPED: 11-4-64, from Cambridge, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand * * * Peeled Tomatoes—Albert W. Sisk and Son Distributors—Preston, Md.—Aberdeen, Md."

LIBELED: 1-11-65, N. Dist. N.Y.

CHARGE: 402(a) (3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 2-9-65. Default—destruction.

30069. Canned tomato juice. (F.D.C. No. 50844. S. No. 117-703 A.)

QUANTITY: 1,596 cases, each containing 12 46-oz. cans, at Kansas City, Kans.

SHIPPED: 10-8-64, from Mount Comfort, Ind., by Coddington Packing Co., Inc.

LABEL IN PART: (Can) "A&P * * * Tomato Juice The Great Atlantic & Pacific Tea Co., Inc., N.Y., N.Y. Distributor."

LIBELED: 11-30-64, Dist. Kans.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 12-29-64. Consent—claimed by Coddington Packing Co., Inc. Segregated; unfit portion of the article destroyed 3-15-65.

30070. Canned tomato paste. (F.D.C. No. 50923. S. No. 127-631 A.)

QUANTITY: 12 cases, each containing 24 1-lb. 14-oz. cans, at Youngstown, Ohio.

SHIPPED: 10-2-64, from Grand Rapids, Mich.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 1-13-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-11-65. Default—destruction.

30071. Canned tomato paste. (F.D.C. No. 51121. S. No. 33-661 B.)

QUANTITY: 150 cases, each containing 24 1-lb. 24-oz. cans, at Grand Rapids, Mich.

SHIPPED: Prior to 6-12-64, from Riverbank and San Jose, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 3-19-65, W. Dist. Mich.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-10-65. Default—destruction.

NUTS AND NUT PRODUCTS

30072. Unshelled brazil nuts. (F.D.C. No. 50769. S. No. 22-114 A.)

QUANTITY: 14 100-lb. bags at Rochester, N.Y.

SHIPPED: On an unknown date, from Brazil.

LIBELED: 12-8-64, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-65. Default—delivered to a public institution for use as animal feed.

30073. Unshelled brazil nuts. (F.D.C. No. 49451. S. No. 79-810 X.)

QUANTITY: 358 cases, each containing 24 pkgs., at Detroit, Mich.

SHIPPED: Prior to 11-8-63, from New York, N.Y., by Graham Co., Inc.

LABEL IN PART: (Pkg.) "Net Weight One Pound Rainbow Brazil Nuts * * *
Packed By Graham Co., Inc., N.Y., N.Y."

LIBELED: 11-15-63, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, shriveled nuts, and empty shells when shipped.

DISPOSITION: 12-24-63. Consent—claimed by Graham Co., Inc., New York, N.Y. Segregated; 439 lbs. destroyed as unfit.

30074. Chestnuts. (F.D.C. No. 50871. S. Nos. 105-559 A, 105-562 A.)

QUANTITY: 14 55-lb. bags at Seattle, Wash.

SHIPPED: 10-27-64, from San Francisco, Calif.

LIBELED: 12-4-64, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and moldy, decomposed nuts while held for sale.

DISPOSITION: 1-18-65. Default—destruction.

30075. Unshelled filberts. (F.D.C. No. 50837. S. No. 16-859 A.)

QUANTITY: 8 100-lb. bags at Boston, Mass.

SHIPPED: 11-12-63, from Dallas, Oreg.

LIBELED: 11-20-64, Dist. Mass.

CHARGE: 402(a)(3)—contained rancid, moldy, shriveled nuts, and empty shells, while held for sale.

DISPOSITION: 12-29-64. Consent—claimed by G. Angelo Fruit Co., Boston, Mass. The attempt to recondition the article was unsuccessful; the article was destroyed.

30076. Granulated peanuts. (F.D.C. No. 50778. S. No. 109-513 A.)

QUANTITY: 16 35-lb. ctns. at Cincinnati, Ohio.

SHIPPED: 10-29-64, from Pittsburgh, Pa.

LIBELED: 12-16-64, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for sale.

DISPOSITION: 1-25-65. Default—delivered to a Government institution for use as animal feed.

30077. Unshelled pecans. (F.D.C. No. 50894. S. No. 88-959 A.)

QUANTITY: 8 100-lb. bags at Mattoon, Ill.

SHIPPED: 10-27-64, from Dothan, Ala.

LIBELED: 12-23-64, E. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed nuts and empty shells while held for sale.

DISPOSITION: 2-9-65. Default—destruction.

30078. Shelled pecans. (F.D.C. No. 50901. S. No. 88-546 A.)

QUANTITY: 315 ctns., each containing approximately 30 lbs., at Memphis, Tenn.

SHIPPED: 11-18-64, from Fort Worth, Tex., by Ellis Pecan Co.

LABEL IN PART: (Ctn.) "Midget Pcs."

LIBELED: 1-5-65, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained excessive coliforms, a high total bacterial count, and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-9-65. Consent—claimed by Ellis Pecan Co., Inc., for reconditioning.

30079. Unshelled pecans. (F.D.C. No. 50897. S. No. 94-803 A.)

QUANTITY: 3,300 lbs. in unlabeled 100-lb. bags and reused 3-lb. cellophane bags, at Orient, Ill., in possession of Charles H. Dooley.

SHIPPED: 11-3-64, from Whigham, Ga.

RESULTS OF INVESTIGATION: The nuts in the 3-lb. bags had been repacked by the dealer from the bulk bags.

LIBELED: 12-23-64, E. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, and shriveled nuts while held for sale.

DISPOSITION: 2-9-65. Default—destruction.

30080. Unshelled pecans. (F.D.C. No. 49567. S. No. 60-139 X.)

QUANTITY: 39 cases, each containing 18 3-lb. pkgs., at Laurens, Iowa.

SHIPPED: 12-2-63, from outside the State of Iowa, by an unknown shipper.

LABEL IN PART: (Pkg.) "Selected paper shell pecans packaged by Davis Pecan Co., Mobile, Ala., Net Weight 3 Lbs."

LIBELED: 12-20-63, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained gummy, shriveled, and moldy nuts when shipped.

DISPOSITION: 1-27-64. Default—destruction.

30081. Grated coconut, egg noodles, and spaghetti. (F.D.C. No. 49140. S. Nos. 18-884/5 V, 19-634 V.)

INDICTMENT RETURNED: 1-13-64, N. Dist. Okla., against Warehouse Market, Inc., Tulsa, Okla., and Clint V. Cox, Jr., president.

ALLEGED VIOLATION: Between 9-29-62 and 2-28-63, while quantities of grated coconut, egg noodles, and spaghetti were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and caused the articles to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent hairs; and 402(a)(4)—held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before court and jury. At the conclusion of the trial, the jury found the corporation guilty but was unable to agree upon a verdict with respect to the individual. The court then dismissed the charges against the individual. On 6-26-64, the court fined the corporation \$7,000 and placed it on probation for 5 years.

30082. Shelled walnuts. (F.D.C. No. 49602. S. No. 71-474 X.)

QUANTITY: 100 30-lb. cases at Buffalo, N.Y.

SHIPPED: 11-22-63, from Portland, Oreg., by Hudson House, Inc.

LABEL IN PART: (Case) "Pride of Oregon Brand Oregon Shelled Walnuts Packed by Hudson House, Inc. Portland Ore."

LIBELED: 1-24-64, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 3-23-64. Consent—claimed by shipper and reconditioned.

30083. Unshelled walnuts (2 seizure actions). (F.D.C. No. 49460; 49577. S. Nos. 23-658 X, 23-661 X; 21-797/9 X.)

QUANTITY: 319 100-lb. bags and 1,065 100-lb. bags at Denver, Colo.

SHIPPED: Between 10-28-63 and 12-10-63, from Visalia, Calif., by Associated Nut Growers.

LABEL IN PART: (Bag) "Golden Nugget Brand California Walnuts Packed By Associated Nut Growers Visalia, California * * * Shells Artificially Bleached."

LIBELED: 11-21-63, 12-27-63, Dist. Colo.

CHARGE: 402(a)(3)—contained insect-infested nuts, moldy nuts, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-23-64. Consent—claimed by Phil Nelson, t/a Associated Nut Growers. Reconditioned; 83,395 lbs. of shell and unfit matter segregated.

30084. Peanut butter. (F.D.C. No. 50434. S. Nos. 31-264/5 A.)

QUANTITY: 106 cases, each containing 12 2-lb. jars, at Paintsville, Ky.

SHIPPED: 4-24-64 and 5-26-64, from Nashville, Tenn., by American Tea & Coffee Co., Inc.

LABEL IN PART: (Jar) "American Ace Homogenized Cream Whipped Peanut Butter * * * Packed by American Tea & Coffee Co., Inc., Nashville, Tenn."

LIBELED: 8-6-64, E. Dist. Ky.

CHARGE: 402(a)(3)—contained grit and was gritty to the taste when shipped.

DISPOSITION: 9-23-64. Default—ordered delivered to a Federal, State, or charitable institution for use as animal feed or destroyed.

30085. Peanut butter. (F.D.C. No. 50435. S. No. 32-228 A.)

QUANTITY: 76 cases, each containing 12 12-oz. jars, at Bowling Green, Ky.

SHIPPED: 6-3-64 and 6-25-64, from Nashville, Tenn., by American Tea & Coffee Co., Inc.

LABEL IN PART: (Jar) "American Ace Homogenized Cream Whipped Peanut Butter * * * Packed by American Tea & Coffee Co., Inc., Nashville, Tenn."

LIBELED: 8-11-64, W. Dist. Ky.

CHARGE: 402(a)(3)—contained grit and was gritty to the taste when shipped.

DISPOSITION: 10-16-64. Default—destruction.

30086. Peanut butter. (F.D.C. No. 50895. S. No. 75-291 A.)

QUANTITY: 49 cases, of 24 btls. each, at Shreveport, La.

SHIPPED: 11-27-64, from Brundidge, Ala., by Brundidge Foods, Inc.

LABEL IN PART: (Btl.) "Net Wt. 12 Ozs. * * * Plymouth Brand Easy Spread Crunchy Peanut Butter * * * Packed By Brundidge Foods, Inc., Brundidge, Ala. For * * * Piggly Wiggly Stores."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 12-23-64, W. Dist. La.

CHARGE: 403(e)(2)—when shipped, the label failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 2-2-65. Default—destruction.

OILS AND FATS

30087. Table and cooking oil. (F.D.C. No. 50004. S. No. 12-715 A.)

QUANTITY: 57 cases, each containing 6 cans, at Boston, Mass., in possession of California Olive Oil Co.

SHIPPED: On 3-3-64 and on unknown dates, the cottonseed oil component from New York, N.Y., the peanut oil component from outside the State of Massachusetts, and the olive oil component from outside the United States.

LABEL IN PART: (Can) "Net Contents One Gallon Fine Table Oil Di Lusso Brand * * * Packed by Cara Donna Olive Oil Co., Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed the article to be approximately 1.5 percent short in volume. The article had been manufactured by the dealer from cottonseed oil, peanut oil, and olive oil shipped as described above.

LIBELED: 4-27-64, Dist. Mass.

CHARGE: 403(e)(2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 6-4-64. Consent—claimed by California Olive Oil Co., Boston, Mass., for relabeling.

30088. Olive oil. (F.D.C. No. 50878. S. No. 17-603 A.)

QUANTITY: 31 cases, each containing 6 cans, at Providence, R.I.

SHIPPED: 6-26-64 and 9-25-64, from Boston, Mass., by C. Pappas Co., Inc.

LABEL IN PART: (Can) "Elena Brand Pure Imported Olive Oil Contents One Gallon C. Pappas Co. Inc. Boston Mass."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume.

LIBELED: On or about 12-16-64, Dist. R.I.

CHARGE: 403(e)(2)—when shipped, the label failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 1-5-65. Consent—claimed by C. Pappas Co., Inc., for repacking and/or relabeling.

SPICES, FLAVORS, AND SEASONING MATERIALS

30089. Chili seed and chili pods. (F.D.C. No. 48627. S. Nos. 30-669/72 V, 30-832/9 V.)

QUANTITY: 2,798 80-lb. bags of chili seed, and 1,338 200-lb. bags of chili pods, at Long Beach, Calif.

SHIPPED: Between 3-1-62 and 6-30-62, from Mexico.

LIBELED: 2-4-63, S. Dist. Calif.

CHARGE: 402(a)(3)—contained live insects while held for sale.

DISPOSITION: 3-14-63. Consent—claimed by Thomas P. Gonzalez Corp., Los Angeles, Calif. Segregated; 56,944 lbs. of chili pods and 8,728 lbs. of chili seed destroyed.

30090. Poppyseed. (F.D.C. No. 50917. S. No. 120-385 A.)

QUANTITY: 51 109-lb. bags at Los Angeles, Calif., in possession of Bakers & Confectioners Supply Co.

SHIPPED: Between 6-24-64 and 10-1-64, from outside the United States.

LIBELED: 1-8-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-5-65. Default—destruction.

30091. Blue poppyseed. (F.D.C. No. 50774. S. No. 65-496 A.)

QUANTITY: 29 110-lb. bags at Culver City, Calif.

SHIPPED: 5-7-60, from Nakskov, Denmark.

LIBELED: 12-14-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained mammalian urine while held for sale.

DISPOSITION: 1-7-65. Default—destruction.

30092. Salt. (F.D.C. No. 51028. S. Nos. 40-012/13 A, 40-015 A.)

INFORMATION FILED: 3-15-65, S. Dist. Tex., against John J. Scogin, t/a Scogin Wholesale Grocery Co., Corpus Christi, Tex.

ALLEGED VIOLATIONS: Between 2-20-63 and 4-16-64, while quantities of salt were being held for sale after shipment in interstate commerce, the defendant caused such salt to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the salt being adulterated.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, rodent nests, and dead rodents; and 402(a)(4)—held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 4-30-65, the case came on for trial before the court upon stipulations except as to the issue of whether or not this salt was a food; and after trial, the court found the defendant not guilty.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

30093. Clusivets tablets and Clusivol capsules. (F.D.C. No. 49384. S. Nos. 12-642/3 X.)

QUANTITY: 1,440 100-tablet btls. of Clusivets and 1,995 100-capsule btls. of Clusivol, at Niles, Ill.

SHIPPED: 6-7-63, from Rouses Point, N.Y., by Ayerst Laboratories, Inc.

LABEL IN PART: (Btl. and ctn.) "Clusivets For The Entire Family Multiple Vitamins-Minerals Dosage * * * Ayerst Laboratories Incorporated," "Clusivol For Adults Potent Nutritional Safeguard Rich in Vitamins with Essential Minerals Dosage * * * Ayerst Laboratories Incorporated."

ACCOMPANYING LABELING: Package inserts entitled "Insure Better Health For The Entire Family."

LIBELED: 10-11-63, N. Dist. Ill.

CHARGE: 403(j)—when shipped, the labeling of the articles failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamins A, D, C, B₁, B₂, and nicotinamide supplied by the articles when consumed in a specified quantity during a period of 1 day, and a statement of the proportion of the minimum daily requirement for iron, calcium, and phosphorous, supplied by the articles when consumed in a specified quantity during the period of one day by pregnant women.

The libel alleged also that the articles were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 8033.

DISPOSITION: 11-18-63. Consent—claimed by American Home Products Corp., for relabeling.

30094. Dicalcium phosphate wafers. (F.D.C. No. 47103. S. Nos. 39-741/2 T, 33-413 T.)

INFORMATION FILED: 11-8-62, E. Dist. N.Y., against Nysco Laboratories, Inc., Long Island City, N.Y.

ALLEGED VIOLATIONS: On 7-6-60, the defendant gave to a local corporation engaged in the business of shipping foods in interstate commerce, an invoice

containing a guaranty that the defendant's dicalcium phosphate wafers were not adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act; and the defendant caused to be delivered packages of adulterated dicalcium phosphate wafers to such local corporation under such guaranty.

On 10-10-60, the defendant shipped from Long Island City, N.Y., to Stillwater, Minn., a drum of adulterated dicalcium phosphate wafers.

The information also alleged violations with respect to the shipment of adulterated drugs as reported in notices of judgment on drugs and devices, No. 8110.

LABEL IN PART: (Drum) "NYSCO Laboratories, Inc. * * * Dicalcium Phosphate (Hydrous) Tablets 15 grains * * * For use as a dietary supplement."

CHARGE: 402(a)(2)(A)—when shipped, the article contained an added deleterious substance, diethylstilbestrol, which was unsafe within the meaning of 406, since such substance was not required in the production of the article and could have been avoided by good manufacturing practices; 402(a)(4)—the article had been prepared under insanitary conditions whereby it may have been rendered injurious to health; and 402(b)(2)—diethylstilbestrol had been substituted in part for dicalcium phosphate.

PLEA: Guilty.

DISPOSITION: 12-5-63. \$800 fine on the counts involving foods; \$2,000 total fine.

30095. Food supplement tablets. (F.D.C. No. 49886. S. Nos. 60-597/8 X.)

QUANTITY: 759 205-tablet boxes and 220 80-tablet boxes at St. Joseph, Mo.

SHIPPED: Between 1-1-63 and 1-31-63, from Council Bluffs, Iowa.

RESULTS OF INVESTIGATION: Examination showed that the article was more than 33 percent deficient in ascorbic acid.

LIBELED: On or about 3-4-64, W. Dist. Mo.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, ascorbic acid, had been in whole or in part omitted or abstracted from the article.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8129.

DISPOSITION: 3-12-64. Consent—destruction.

30096. Vitamin tablets. (F.D.C. No. 50078. S. Nos. 21-181 X, 44-779 A.)

QUANTITY: Approximately 59,900 tablets in a bulk drum, and in 126 100-tablet btls., at Salt Lake City, Utah.

SHIPPED: 3-26-63, from Long Island City, N.Y.

LABEL IN PART: (Drum) "Each 2 Tablets Contain Menadione 0.1 Mg. For Use as a Dietary supplement" and (btl.) "Vitamin Tablets * * * One (1) Tablet Contains Vitamin K (Menadione) 0.5 mgm. One tablet daily as a dietary supplement."

LIBELED: 5-11-64, Dist. Utah.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, menadione, which was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 7-13-64. Default—destruction.

30097. Geri-Pep capsules, Nutri-Kings tablets, and Hi-42 capsules. (F.D.C. No. 50687. S. Nos. 109-406/8 A.)

QUANTITY: 33 100-capsule btls. of Geri-Pep capsules, 8 540-tablet btls., 10 180-tablet btls., and 10 360-tablet btls. of Nutri-Kings tablets, and 4 65-capsule btls. of Hi-42 capsules, at Cincinnati, Ohio.

SHIPPED: Between 1-1-63 and 9-29-64, the Geri-Pep capsules from Worcester, Mass., by Brewer & Co., the Nutri-Kings tablets from Franklin Park, Ill., by Health Food Jobbers, Inc., and the Hi-42 capsules from New York, N.Y., by Sherman Foods, Inc.

LABEL IN PART: (Btl.) "Spatz' Geri-Pep Vitamin B Complex with Liver, Iron, Folic Acid, Inositol, Choline, Rutin, Vitamin B-12 and Minerals Indications: A special dietary supplement * * * Spatz Better Foods For Better Health Distributors * * * Cincinnati 2, Ohio * * * Folic Acid 0.5 mg. * * * Dose: One capsule daily"; (btl.) "Nutri-Kings Food Supplement * * * Vitamin K (Menadione) 1 mg. * * * Iodine (Potassium Iodide) 0.6 mg. Fluorine * * * 0.5 mg. * * * Universal Nutritions, Inc. Dist New York 13, N.Y."; and (btl.) "Hi-42 A dietary supplement of high potency vitamins of the B-Complex group and vitamin C coupled with Iron and Copper and the Lipotropic Factors, plus Desiccated liver in a synergistic combination. Distributed by Tropical House Corp. New York 13, N.Y. Directions * * * Provides Folic Acid 0.25 mg. * * * Desiccated Liver N.F. 178 mg. * * * Inositol 25 mg. dl-Methionine 25 mg. * * * Choline Dihydrogen Citrate 25 mg."

LIBELED: 10-26-64, S. Dist. Ohio.

CHARGE: 402(a)(2)(C)—while held for sale, the Geri-Pep capsules and the Hi-42 capsules contained the food additive folic acid and the Nutri-Kings tablets contained the food additives menadione, iodine, and fluorine, which food additives were unsafe within the meaning of 409, since they and their use and intended use were not in conformity with a regulation or exemption; 403(a)—when shipped, the labeling of the Geri-Pep capsules was false and misleading in that the listings and references in the labeling of the article as to the inclusion in the article of the ingredients choline dihydrogen citrate, inositol, dicalcium phosphate, magnesium sulfate, potassium sulfate, and rutin suggested and implied, contrary to fact, that the nutritional value of the article was enhanced by the presence therein of these ingredients; and in that the label statement "The Need for Calcium Pantothenate * * * potassium, magnesium, copper and manganese in human nutrition has not been determined," was false and misleading, since the need in human nutrition for these ingredients had been established; 403(a)—when shipped, the labeling of the Nutri-Kings tablets was false and misleading in that the listing and references in the labeling of the article as to the inclusion in the article of the ingredients choline dihydrogen citrate, dl-methionine, inositol, biotin, para-aminobenzoic acid, magnesium, rutin, potassium, zinc, chlorophyllins, lemon bioflavonoid complex, alfalfa leaves, kelp, parsley, zein, soy beans and watercress, suggested and implied, contrary to fact, that the nutritional value of the article was enhanced by the presence therein of these ingredients; in that the label statement the "Need in human nutrition has not been established" as applied to calcium pantothenate, zinc, and manganese, was false and misleading, since the need in human nutrition for these ingredients had been established; in that the label statement "Need in human nutrition established but no MDR established" as applied to niacinamide was false and misleading since the minimum daily requirement for niacinamide had been established; and in

that the label statements of the proportions of the minimum daily requirements for vitamins A and B₂ supplied by the article was false and misleading since they were contrary to fact; 403(a)—when shipped, the labeling of the Hi-42 capsules was false and misleading in that the listing and references in the labeling of the article as to the inclusion in the article of the ingredients desiccated liver, inositol, dl-methionine, and choline dihydrogen citrate, suggested and implied, contrary to fact, that the nutritional value of the article was enhanced by the presence therein of these ingredients; in that the statement "Need in human nutrition has not been established" as applied to calcium panthothenate was false and misleading, since the need in human nutrition for calcium panthothenate had been established; and in that the label statements of the proportion of the minimum daily requirement for vitamin B₁ was false and misleading since it was contrary to fact; and 403(j)—when shipped, the Nutri-Kings tablets and Hi-42 capsules purported to be and were represented as foods for special dietary use by reason of their vitamin content and their labels failed to bear such information concerning their dietary properties as the Secretary had determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to their value for such uses, since the label of the Nutri-Kings tablets failed to bear, as regulations require, a statement of the proportion of the minimum daily requirements for vitamins A and B₂ and niacinamide supplied by such food when consumed in a specified quantity during a period of one day, and the label of the Hi-42 capsules failed to bear a statement of the proportion of the minimum daily requirement for vitamin B₁ supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 12-11-64. Default—destruction.

MISCELLANEOUS FOODS

30098. Corn husks. (F.D.C. No. 50907. S. No. 65-499 A.)

QUANTITY: 27 60-lb. bales at Norwalk, Calif.

SHIPPED: Between 10-19-64 and 12-3-64, from San Antonio, Tex., by Max Feed Store, Oscar's Tomatoes, and Mendez Produce.

LIBELED: 12-31-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and moldy corn husks when shipped.

DISPOSITION: 1-21-65. Default—destruction.

30099. Corn husks. (F.D.C. No. 50896. S. No. 64-564 A.)

QUANTITY: 7 unlabeled and 1 labeled 50-lb. bales at San Diego, Calif.

SHIPPED: 11-12-64, from Mexico, by unknown shipper.

LABEL IN PART: (Bale) "Corn Husk Product of Mexico Produced in State of Nayarit Hoja De Primera DLD 6-6-63."

LIBELED: 12-23-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect-damaged corn husks when shipped.

DISPOSITION: 1-25-65. Default—destruction.

30100. Corn husks. (F.D.C. No. 50919. S. No. 120-221 A.)

QUANTITY: 8 unlabeled bales, each containing approximately 58 lbs., at Los Angeles, Calif.

SHIPPED: 12-4-64, from Tijuana, Mexico.

LIBELED: 1-7-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect excreta, insect webbing, and moldy corn husks while held for sale.

DISPOSITION: 2-5-65. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30001 TO 30100

PRODUCTS

	N.J. No.		N.J. No.
Beans, Great Northern, dried	¹ 30055-30059	Flour	30006-30023
pinto, dried	¹ 30055-30057	enriched	30007, 30008
red, dried	¹ 30055	Food additive violations	30096, 30097
Beverages and beverage materials	30001-30004	Fruits and vegetables	30052-30071
Brandy	30004	fruit, frozen	30052
Brazil nuts, unshelled	30072, 30073	miscellaneous fruit product	30053
Butter	30036	preserves	30054
peanut	30084-30086	tomatoes and tomato products	30066-30071
Celery	30061	vegetables and vegetable products	30055-30065
Cereals and cereal products	30005-30035, 30018, 30033	Geri-Pep capsules	30097
Chestnuts	30074	Great Northern beans, dried	¹ 30055, 30058, 30059
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pods	30089	Hi-42 capsules	30097
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Clusivol capsules	30093	Nonfat dry milk	30037
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Fish and shellfish	30044-30051	blue	30091
fillets, frozen	30045	Preserves, fig	30054
Flavors. See Spices, flavors, and seasoning materials.			

¹ (30025, 30055) Injunction issued.

² (30081, 30092) Prosecution contested.

	N.J. No.		N.J. No.
Rice -----	30018	Tomatoes, canned-----	30066-30068
Salt -----	² 30092	juice, canned-----	30069
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Spaghetti -----	² 30081	ucts of special dietary sig-	
Spices, flavors, and seasoning		nificance -----	30093-30097
materials -----	30089-30092	Walnuts, shelled-----	30082
Strawberries, frozen-----	30052	unshelled -----	30083
Strawberry puree-----	30053	Wheat -----	¹ 30025-30032
Tea bags-----	30003	cereal -----	30033

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co., Inc.:		Buxton Co-operative Grain Co.:	
canned tomato juice-----	30069	wheat -----	¹ 30025
Ahlquist, P. F.:		California Olive Oil Co.:	
dried pinto beans, Great North-		table and cooking oil-----	30087
ern beans, and red beans---	¹ 30055	Cara Donna Olive Oil Co.:	
Allied Food Distributors, Inc.:		table and cooking oil-----	30087
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American Tea & Coffee Co., Inc.:		butter -----	30036
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Ardis-Ritchie Grocer Co. <i>See</i>		canned tomato juice-----	30069
Ritchie Grocer Co.		Commercial Creamy Co.:	
Associated Nut Growers:		dried egg yolk solids and dried	
unshelled walnuts-----	30083	eggs -----	30040
Associated Wholesale Grocers,		Cordova, A. O.:	
Inc.:		enriched flour-----	30007
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Bartlett & Co., Grain:		raised Donut base-----	30034
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Brewer & Co.:		Ehlers, Albert, Inc.:	
Geri-Pep capsules-----	30097	tea bags-----	30003
Breyer Ice Cream, Div. of Na-		Ellis Pecan Co.:	
tional Dairy Products Corp.:		shelled pecans-----	30078
frozen strawberries-----	30052	Ell Vee Dee, Inc.:	
Brundidge Foods, Inc.:		frozen haddock fillets-----	30046
peanut butter-----	30086		

¹ (30025, 30055) Injunction issued.² (30081, 30092) Prosecution contested.

	N.J. No.		N.J. No.
Emerson Canning Co.:		Klempf, Jake:	
canned tomatoes-----	30066, 30067	frozen eggs-----	30039
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frozen shrimp-----	30051	coffee beans-----	30001
Farmers Grain Exchange:		La Victoria Foods, Inc.:	
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Finer Made Pickle Co.:		Leopardi Products, Inc.:	
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Fleishman, S. F.:		wheat -----	30029
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Flintridge Egg Farms, Inc.:		dried Great Northern beans--	30058
frozen eggs-----	30039	Marja Acres:	
Flour, Inc.:		frozen eggs-----	30040
raised Donut base-----	30035	Marksville Wholesale Corp.:	
Fox, Louis:		flour -----	30015
nonfat dry milk and cornmeal	30037	Marlow Egg Farms:	
Freeman, C. E.:		frozen eggs-----	30040
dried pinto beans, Great North-		Marshburn Farms:	
ern beans, and red beans--- ¹	30055	celery -----	30061
Gallego, B. V.:		Max Feed Store:	
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ern beans, and red beans--- ¹	30055	Mendez Produce:	
General Grocer Co., Inc.:		corn husks-----	30098
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Griffin Grocery Co.:		tea bags-----	30003
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Health Food Jobbers:		sweet mixed pickles and sweet	
Nutri-Kings tablets-----	30097	pickle chips-----	30065
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H. C.		corn husks-----	30098

¹ (30025, 30055) Injunction issued.

	N.J. No.		N.J. No.
Olson Bros., Inc.:		Shields:	
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Pappas, C., Co., Inc.:		Sisk, Albert W., & Son:	
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Co.:		frozen eggs-----	30041
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Ritchie Grocer Co.:		enriched flour-----	30008
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Ruark, T. L., & Co.:		Hi-42 capsules-----	30097
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Sherman Foods, Inc.:		butter -----	30036
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¹ (30025, 30055) Injunction issued.² (30081, 30092) Prosecution contested.

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

30101-30200

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, consent, or, in one case, summary judgment; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; and (3) injunction proceedings in which consent decrees of permanent injunction were entered. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *December 13, 1965.*

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U. S. DEPT. OF AGRICULTURE

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NATIONAL AGRICULTURAL LIBRARY

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30101-30200

Adulteration, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(d), the container of the article was so made, formed, or filled as to be misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard; and (2) its label failed to bear the name of the food specified in the definition and standard; Section 403(i)(1), the article was not subject to the provisions of Section 403(g) and its label failed to bear the common or usual name of the article; and Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS***BAKERY PRODUCTS**

30101. Frozen apple dumplings. (F.D.C. No. 50707. S. No. 48-258 A.)

QUANTITY: 115 cases, each containing 3 12-unit ctns., at Kansas City, Kans.

SHIPPED: 8-4-64, from Traverse City, Mich., by Chef Pierre, Inc.

LABEL IN PART: (Case) "3 Dozen Chef Pierre Old Fashioned Apple Dumplings
Created by Chef Pierre, Inc. Traverse City, Michigan."

LIBELED: 11-16-64, Dist. Kans.

CHARGE: 402(a)(3)—contained coagulase positive staphylococci and a high total bacterial count; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-11-65. Default—destruction.

30102. Frozen pumpkin pies. (F.D.C. No. 51161. S. No. 10-141 B.)

QUANTITY: 47 cases, each containing 6 1½-lb. ctns., at Spokane, Wash.

SHIPPED: 11-2-64 and 11-20-64, from McMinnville, Oreg., by Bradley's Frozen Foods, Inc.

LABEL IN PART: (Ctn.) "Bradley's Home Style Frozen Pies * * * Pumpkin Pie
Bradley's Frozen Foods, Inc., McMinnville, Oregon."

LIBELED: 4-8-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained excessive coliforms and a high total bacterial count; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-16-65. Default—destruction.

30103. Frozen pumpkin pies. (F.D.C. No. 51195. S. Nos. 10-283 B, 10-783 B.)

QUANTITY: 163 cases, each containing 6 24-oz. ctns., at Great Falls, Mont.

SHIPPED: 12-16-64, from McMinnville, Oreg., by Bradley's Frozen Foods, Inc.

LABEL IN PART: (Ctn.) "Bradley's Home Style Frozen Dessert Pies Holiday
Pumpkin Pie * * * Bradley's Frozen Foods, Inc., McMinnville, Oreg."

LIBELED: 5-21-65, Dist. Mont.

CHARGE: 402(a)(3)—contained excessive bacteria, excessive coliforms, and excessive *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-12-65. Default—destruction.

CORNMEAL

30104. Enriched cornmeal. (F.D.C. No. 50798. S. Nos. 168/9 A, 173 A.)

INFORMATION FILED: 2-19-65, M. Dist. N.C., against James R. Bray, t/a Bray's Mill, Mount Airy, N.C.

SHIPPED: Between 12-19-63 and 1-9-64, from Mount Airy, N.C., to Galax, Va.

LABEL IN PART: (Bags) "Self-Rising Corn Meal Bray's Mill Mt. Airy, N.C.
ENRICHED!" and "Enriched 10 LBS. WHITE BOLTED MEAL BRAY'S
MILL Mount Airy, N.C."

CHARGE: 402(b)(1)—when shipped, valuable enrichment constituents, namely, riboflavin, niacin, and iron, had been in part omitted; 403(a)—the label

*See also Nos. 30174, 30184.

statement "Eight ounces * * * supply not less than the following proportions of the adult minimum daily requirements for * * *: Riboflavin 50%; Niacin 80%; Iron 65%," on each bag of the food was false and misleading in that the statement represented and suggested that eight ounces of the food contained not less than 50% of the adult minimum daily requirements of riboflavin, not less than 80% of the adult minimum daily requirements of niacin, and not less than 65% of the adult minimum daily requirement of iron, whereas eight ounces of the food contained less than the above-stated proportions of the minimum daily requirements of riboflavin, niacin, and iron; and 403(g) (1)—the article purported to be and was represented as "enriched corn meal," a food for which a definition and standard of identity has been prescribed by regulations and it failed to conform to such definition and standard of identity since each pound of the food contained less than 1.2 milligrams of riboflavin, less than 16 milligrams of niacin, and less than 13 milligrams of iron.

PLEA: Guilty.

DISPOSITION: 5-5-65. \$400 fine.

FLOUR*

30105. Flour and hominy grits. (F.D.C. No. 50612. S. Nos. 64-762 X, 64-764 X.)

INFORMATION FILED: 3-18-65, M. Dist. Ga., against Rio Stores, Inc., Albany, Ga., and John Beasley, secretary-treasurer.

ALLEGED VIOLATION: Between 8-15-63 and 9-12-63, while quantities of flour and hominy grits were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects, insect larvae, and insect cast skins; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-5-65. Each defendant fined \$200.

30106. Flour. (F.D.C. No. 50180. S. Nos. 66-524/5 X, 66-554 X.)

INFORMATION FILED: 10-8-64, N. Dist. Ga., against S. Paul Travis, Atlanta, Ga.

ALLEGED VIOLATION: Between 7-9-63 and 9-6-63, while a number of bags of flour were being held for sale after shipment in interstate commerce, the defendant caused the article to be held in a building that was accessible to rodents and insects, and to be exposed to contamination by rodents and insects, which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained rodent hairs, rodent excreta, and rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-12-65. \$900 fine.

30107. Flour. (F.D.C. No. 50903. S. No. 120-442 A.)

QUANTITY: 450 100-lb. bags, at Riverside, Calif., in possession of Loma Linda Foods.

SHIPPED: 11-6-64, from Ogden, Utah.

*See also Nos. 30113, 30114, 30132, 30134, 30136.

LIBELED: 12-30-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-5-65. Consent—claimed by Loma Linda Foods. Segregated and reconditioned; 1,005 lbs. destroyed and 31,707 lbs. denatured for use as animal feed.

30108. Flour. (F.D.C. No. 50973. S. Nos. 3-834/5 A.)

QUANTITY: 11 25-lb. bags and 85 50-lb. bags at Gainesville, Ga., in possession of Carter Grocery Co., Inc.

SHIPPED: 8-29-64 and 10-6-64, from Salina and Whitewater, Kans.

LIBELED: On or about 1-15-65, N. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-2-65. Default—delivered to a public institution for use as animal feed.

30109. Flour. (F.D.C. No. 50743. S. No. 113-068 A.)

QUANTITY: 85 100-lb. bags, at Tulsa, Okla., in possession of Hodges Merchandise Co.

SHIPPED: 9-17-64, from Ionia, Mich.

LIBELED: 11-24-64, N. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-27-65. Default—destruction.

30110. Flour. (F.D.C. No. 51405. S. Nos. 30-962/4 B.)

QUANTITY: 332 10-lb. bags and 486 25-lb. bags, at Lake City, Fla., in possession of Hackney Grocery Co., Inc.

SHIPPED: 1-28-65 and 3-30-65, from Chattanooga, Tenn.

LIBELED: 6-3-65, M. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine and one lot was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-1-65. Default—destruction.

MACARONI AND NOODLE PRODUCTS

30111. Macaroni, spaghetti, and noodle products. (Inj. No. 474.)

COMPLAINT FOR INJUNCTION FILED: 9-11-63, S. Dist. Calif., against Western Globe Products, Inc., Los Angeles, Calif., and Weber Food Products Co., Inc., Bell Gardens, Calif.

CHARGE: The complaint alleged that the defendants were engaged in the manufacture, storage, and interstate distribution of macaroni, spaghetti, and noodle products; and that the corporate defendants had the same president and the same vice president.

It was alleged further that the defendants had caused to be introduced and delivered for introduction into interstate commerce, the above-described foods which were adulterated within the meaning of 402(a)(3) and 402(a)(4), in

that such foods contained rodent hairs and insect fragments and had been prepared, packed, and held under insanitary conditions.

DISPOSITION: On 9-11-63, the defendants having consented, the court entered a decree perpetually enjoining the defendants from directly or indirectly causing to be introduced or delivered for introduction into interstate commerce in violation of the law, any macaroni, spaghetti, or noodle product or any other food which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance, and within the meaning of 402(a)(4) in that it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

30112. Vermicelli and egg noodles. (F.D.C. No. 48574. S. Nos. 32-701/2 T.)

INFORMATION FILED: 7-3-63, S. Dist. Calif., against Western Globe Products, Inc., Los Angeles, Calif., Robert S. William, president, Sanford Blavin, production manager, and Allen Wethmeller, plant manager.

SHIPPED: 2-7-62 and 2-21-62, from Los Angeles, Calif., to Phoenix, Ariz.

LABEL IN PART: (Pkgs.) "Net Wt. 1 Pound Enriched Globe Coil Fideo 'A1' (Vermicelli-Pasta Suprema) Western Globe Products Inc., Los Angeles, Calif."
"Net Wt. 8 Ounces Enriched Globe Medium 'A1' Egg Noodles Western Globe Products Inc., Los Angeles, Calif."

CHARGE: 402(a)(3)—when shipped, contained rodent hairs and insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-19-63. Corporation—\$200 fine; individual defendants—\$100 fine each.

30113. Egg noodles, cereal, and flour. (F.D.C. No. 49687. S. Nos. 3-642 X, 3-650 X, 5-479 X.)

INFORMATION FILED: 3-27-64, E. Dist. Va., against E. A. Harper & Co., Inc., Newport News, Va.

ALLEGED VIOLATIONS: Between 8-16-62 and 8-1-63, the defendant caused quantities of noodles, cereal, and flour to be held in a building which was accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles becoming adulterated.

CHARGE: 402(a)(3)—contained insects, insect webbing, and insect filth; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-15-65. \$900 fine.

30114. Noodles, pancake mix, baby cereals, flour, and macaroni. (F.D.C. No. 49187. S. Nos. 19-758 V, 61-181/2 V, 61-184 V, 73-728/9 V, 73-731/2 V.)

INFORMATION FILED: 1-18-65, E. Dist. Tex., against Monroe-Pearson Co., a corporation, Denton, Tex., and Aaron W. Pearson, president.

ALLEGED VIOLATION: Between 4-20-62 and 5-15-63, while quantities of noodles, pancake mix, baby cereals, flour, and macaroni were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects, insect parts, and rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-25-65. Corporation—\$4,000 fine suspended; individual—\$400 fine suspended.

30115. Macaroni and noodle products. (F.D.C. No. 50377. S. Nos. 22-192 V, 32-668 V, 22-995 X, 22-996/9 X, 59-099 X.)

INFORMATION FILED: 2-26-65, S. Dist. Calif., against Camillo De Rocco, t/a Florence Macaroni Manufacturing Co., Los Angeles, Calif., and Francis De Rocco, plant manager, and Lindo Di Amico, plant supervisor.

SHIPPED: 1-30-63, 9-6-63, 9-13-63, from Los Angeles, Calif., to Salt Lake City, Utah, 3-12-63, from Los Angeles, Calif., to Tucson, Ariz., and 10-30-63, from Los Angeles, Calif., to Las Vegas, Nev.

LABEL IN PART: (Pkgs.) "Florence Brand 100% No. 1 Semolina Spaghetti Products Made By Florence Macaroni Mfg. Co. Los Angeles, Calif.," (pkgs.) "Spaghetti * * * Florence Macaroni Mfg. Co.," (pkgs.) "Florence Brand 100% No. 1 Semolina Macaroni Products Linguine [or "Tagliarini," or "Spaghetti," or "Perciatelli"] Made By Florence Macaroni Mfg. Co. Los Angeles, Calif.," (pkgs.) "Ziti * * * Florence Brand Manufactured By Florence Macaroni Mfg. Co. Los Angeles, California," and (pkgs.) "Broad Egg Noodles * * * Shetakis Wholesalers, Inc. Las Vegas, Nevada."

CHARGE: 402(a) (3)—when shipped, contained insect fragments and rodent hairs; and 402(a) (4)—prepared, packed, and held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-28-65. Camillo De Rocco—\$800 fine, and probation for 1 year; Francis De Rocco—\$400 fine, and probation for 1 year; Lindo Di Amico—\$400 fine, and probation for 1 year.

30116. Egg noodles. (F.D.C. No. 51284. S. No. 3-980 B.)

QUANTITY: 137 cases, each containing 12 12-oz. pkgs., at Xenia, Ohio.

SHIPPED: 3-10-65, from Louisville, Ky., by Delmonico Foods, Inc.

LABEL IN PART: (Bag) "Flav-O-Rite Quick Cooking Egg Noodles * * * Contains 5½% Egg Solids Enriched * * * Distributed by Super Valu Stores, Inc. * * * Xenia, Ohio * * * Vitamin Enriched. 4 Oz. * * * provide the following proportions of minimum daily adult requirements of these essential food substances: Thiamine 50.0%, Riboflavin 25.0%, Iron 32.5%, Niacin 40.0%."

LIBELED: 4-27-65, S. Dist. Ohio.

CHARGE: 402(a) (1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms which may render it injurious to health; and 403(g) (1)—the article purported to be enriched egg noodles, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard since the article contained less than 4 milligrams of thiamin, less than 1.7 milligrams of riboflavin, and less than 27 milligrams of niacin in each pound.

DISPOSITION: 6-18-65. Default—destruction.

30117. Spaghetti. (F.D.C. No. 49978. S. No. 45-239 A.)

QUANTITY: 103 cases, each containing 24 10-oz. pkgs., at Lubbock, Tex.

SHIPPED: Between 3-2-64 and 3-17-64, from Denver, Colo., by American Beauty

Macaroni Co.

LABEL IN PART: (Pkg.) "American Beauty Enriched New! High in protein Low in fat Thin Spaghetti * * * energy type food with improved calorie balance for weight watchers * * * American Beauty Macaroni Company."

ACCOMPANYING LABELING: Package insert entitled "American Beauty."

LIBELED: 4-29-64, N. Dist. Tex.

CHARGE: 403(a)—when shipped, the package label and the package insert entitled "American Beauty" contained false and misleading representations that the article was significantly different from enriched spaghetti generally available, that four ounces of the article will furnish 105 calories, that the article will supply an unusually high amount of protein and energy in an amount which is low in calories, that the article, by reason of its high protein-low fat content is of special significance for reducing and controlling body weight, and that the article was adequate and effective to control the cholesterol level of the blood, prevent coronary heart disease and other disorders, and to build and repair body tissues and organs; and 403(j)—the article purported to be and was represented as a food for special dietary use to regulate the intake of sodium, and its label failed to bear such information concerning its dietary properties, as prescribed by regulations as necessary in order fully to inform purchasers as to its value for such use, since its label failed to bear a statement of the number of milligrams of sodium in 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: On 6-8-64, the American Beauty Macaroni Co., claimant, filed an answer denying that the article was misbranded. On or about 10-27-64, the Government served written interrogatories on the claimant. On 5-17-65, the claimant not desiring to prosecute its claim and therefore consenting, the court entered a decree of condemnation and ordered the destruction of the article since at that time the article was unfit for food.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30118. Wheat. (F.D.C. No. 50906. S. No. 124-110 A.)

QUANTITY: 96,000 lbs. at Duluth, Minn.

SHIPPED: 11-18-64, from Medina, N. Dak., by Medina Farmers Union Grain Co.

LIBELED: 1-6-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 2-17-65. Default—destruction.

30119. Wheat. (F.D.C. No. 51133. S. No. 10-143 B.)

QUANTITY: 120,600 lbs. at Spokane, Wash.

SHIPPED: 2-9-65, from Mandan, N. Dak., by P. V. Company Producer Service.

LIBELED: 2-19-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-18-65. Consent—claimed by Peavey Co., Minneapolis, Minn., and denatured.

30120. Wheat and rice. (F.D.C. No. 50675. S. Nos. 15-198/9 A.)

QUANTITY: 8 100-lb. bags of wheat and 20 100-lb. bags of rice, at Boston, Mass., in possession of John Zedros, Inc.

SHIPPED: Between 5-1-64 and 5-23-64, from Fresno, Calif., and Houston, Tex.

LIBELED: 10-19-64, Dist. Mass.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-12-65. Default—destruction.

30121. Wheat. (F.D.C. No. 51432. S. No. 30-352 B.)

QUANTITY: 92,400 lbs., at Duluth, Minn.

SHIPPED: 5-18-65, from Manvel, N. Dak., by Manvel Farmers Union Elevator Co.

LIBELED: 6-14-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 7-1-65. Consent—destruction.

30122. Rice. (F.D.C. No. 50279. S. No. 73-469 A.)

QUANTITY: 110 bales, each containing 20 3-lb. bags, at Allendale, S.C.

SHIPPED: 4-23-64, from Crowley, La., by Louisiana Rice Growers, Inc.

LABEL IN PART: (Bag) "Delta Boy Brand * * * Finest Quality Long Grain Rice Packed by Louisiana Rice Growers, Inc. Crowley, La."

LIBELED: 6-11-64, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 403(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-11-65. Consent—claimed by Louisiana Rice Growers, Inc. Segregated and reconditioned; 200 lbs. denatured.

30123. Rice. (F.D.C. No. 50766. S. No. 100-486 A.)

QUANTITY: 21 100-lb. bags, at Bakersfield, Calif., in possession of Interstate Restaurant Supply Co.

SHIPPED: 7-31-64, from Houston, Tex.

LIBELED: 12-4-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-11-65. Default—destruction.

30124. Rice. (F.D.C. No. 50763. S. No. 97-125 A.)

QUANTITY: 41 bags at Caruthers, Calif.

SHIPPED: 11-2-64, from Bay City, Tex., by Comet Rice Mills, Inc.

LABEL IN PART: (Bag) "Net Wt. 100 Lbs.—U.S. No. 1 EXTRA FANCY LEI'S SELECTED LONG GRAIN RICE Packed for San Joaquin Mercantile Co. Reedley, California."

RESULTS OF INVESTIGATION: Inspection of the shipper showed that the article had been stored in insect-infested bins.

LIBELED: 12-4-64, S. Dist. Calif.

CHARGE: 402(a)(3)—when shipped, contained insects and insect larvae and fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-25-65. Default—destruction.

30125. Rice. (F.D.C. No. 50892. S. Nos. 122-868 A, 122-870 A.)

QUANTITY: 40 25-lb. bags, at Sioux Falls, S. Dak., and at Beresford, S. Dak.

SHIPPED: 3-16-64, from Stuttgart, Ark., to Sioux Falls, S. Dak. A portion of the article was thereafter delivered to Beresford, S. Dak.

RESULTS OF INVESTIGATION: The article had been held after shipment from Arkansas at the premises of the Sioux Falls Distributing Co., Sioux Falls, S. Dak., under insanitary conditions.

LIBELED: 12-21-64; libel amended 12-23-64, Dist. S. Dak.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-2-65. Default—delivered to a public institution for use as animal feed.

30126. Rice and peas. (F.D.C. No. 50898. S. Nos. 32-368/9 A.)

QUANTITY: 17 100-lb. bags of rice and 40 100-lb. bags of peas at Cincinnati, Ohio, in possession of Cincinnati Merchandise Warehouse, Inc.

SHIPPED: 10-7-64 and 8-25-64, from Stuttgart, Ark., and Morrill, Nebr.

LIBELED: 12-23-64, S. Dist. Ohio.

CHARGE: 402(a)(3)—the rice was rodent gnawed and contained rodent urine and the peas contained insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-3-65. Default—delivered to a public institution for use as animal feed and not for sale or other use by the institution.

30127. Rice. (F.D.C. No. 50927. S. Nos. 47-328/9 A.)

QUANTITY: 24 bales, each containing 30 bags, at Denver, Colo.

SHIPPED: 9-16-64 and 12-9-64, from Beaumont, Tex., by Comet Rice Mills, Inc.,

LABEL IN PART: (Bag) "Net Weight 2 Pounds Comet Adolphus Enriched Longer Grain Rice * * * Comet Rice Mills, Inc. * * * Beaumont, * * * Texas."

LIBELED: 1-18-65, Dist. Colo.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 2-18-65. Default—ordered delivered to a Government institution for use as animal feed only.

30128. Wild rice. (F.D.C. No. 50658. S. No. 15-925 A.)

QUANTITY: 43 cases, each containing 12 2¾-oz. boxes, at Boston, Mass.

SHIPPED: 8-14-64, from Cohasset, Minn., by the Hicks Co.

LABEL IN PART: (Box) "Red Label Instant Wild Rice S.S. Pierce * * * Cooks in five minutes."

LIBELED: 10-5-64, Dist. Mass.

CHARGE: 402(a)(3)—contained *E. coli*, excessive coliforms, and a high total bacterial count; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 1-5-65. Consent—claimed by the Hicks Co., and destroyed.

30129. Unpopped popcorn. (F.D.C. No. 51006. S. Nos. 22-881 B, 22-884 B.)

QUANTITY: 71 50-lb. bags and 151 bales of 4 12½-lb. bags each, at Houston, Tex., in possession of Texas Union Warehouse Co.

SHIPPED: Between 9-17-64 and 12-16-64, from Tarkio, Mo., and Lake View, Iowa.

LIBELED: 2-3-65, S. Dist. Tex.

CHARGE: 402(a)(3)—all lots contained insects and the 151-bale lot was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-16-65. Default—destruction.

30130. Unpopped popcorn. (F.D.C. No. 50911. S. No. 113-799 A.)

QUANTITY: 184 50-lb. bags at Roanoke, Va.

SHIPPED: Between 10-6-64 and 11-14-64, from Kimmell, Ind.

LIBELED: 1-7-65, W. Dist. Va.

CHARGE: 402(a)(3)—contained insect larvae, insect excreta, and insect webbing while held for sale.

DISPOSITION: 2-11-65. Consent—claimed by Manley, Inc., Kansas City, Mo., and reconditioned.

30131. Unpopped popcorn. (F.D.C. No. 50965. S. Nos. 68-085/6 A.)

QUANTITY: 19 100-lb. bags of white popcorn and 28 50-lb. bags of yellow popcorn at Madison, Wis.

SHIPPED: Prior to 10-15-65, from Evansville and Indianapolis, Ind.

RESULTS OF INVESTIGATION: Investigation revealed that the articles had been held under insanitary conditions in an insect-infested plant at Caramel Crisp Shop, Madison, Wis. The articles had been thereafter delivered to another firm for fumigation.

LIBELED: 1-4-65, W. Dist. Wis.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect fragments, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-2-65. Default—ordered delivered to a state, county, or municipal charitable organization and denatured for use as animal feed, or destroyed.

30132. Cake mixes, soup mix, and cake flour. (F.D.C. No. 50451. S. Nos. 84-347/50 A.)

INFORMATION FILED: 9-2-64, E. Dist. Ark., against Grand Prairie Wholesale Grocery, Inc., Stuttgart, Ark., and Lee Berry, president.

ALLEGED VIOLATION: Between 11-4-63 and 3-12-64, while quantities of cake mixes, soup mix, and cake flour were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects, and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect cast skins; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-22-65. Corporation—\$200 fine; individual—\$4 fine.

30133. Muffin mixes. (F.D.C. No. 50636. S. Nos. 45-019/20 A.)

INFORMATION FILED: 12-14-64, Dist. Idaho, against Vernon D. Hazen, t/a General Wholesale Co., Twin Falls, Idaho.

ALLEGED VIOLATION: Between 2-28-63 and 1-27-64, while quantities of muffin mixes were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to and infested with rodents, and to be exposed to contamination by rodents.

CHARGE: 402(a)(3)—contained mouse pellets and rodent excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-1-65. \$400 fine suspended, and probation for 2 years.

30134. Pancake mix and flour. (F.D.C. No. 50026. S. Nos. 47-141/3 X, 47-145 X, 47-154/6 X.)

INFORMATION FILED: 6-12-64, E. Dist. Ark., against Garland B. Eddy, t/a Arkansas Valley Wholesale Grocery Co., Morrilton, Ark.

ALLEGED VIOLATIONS: Between 3-13-63 and 10-24-63, while quantities of pancake mix and flour were being held for sale after shipment in interstate commerce, the defendant caused such pancake mix and flour to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the pancake mix and flour being adulterated.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect cast skins; and 402(a)(4)—held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 4-20-65, the case came on for trial by the court. On 4-21-65 the court found the defendant guilty, and fined him \$1,000.

30135. Pancake mix. (F.D.C. No. 50765. S. No. 111-188 A.)

QUANTITY: 79 bales, each containing 12 3-lb. bags, at Maryville, Mo.

SHIPPED: 9-25-64, from Humboldt, Nebr., by O. A. Cooper Co.

LABEL IN PART: (Bag) "Townsend's Fancy Cream All Wheat Self-Rising Pancake Mix—Milled Expressly for Townsend Wholesale Grocery Co., Maryville, Missouri."

LIBELED: 12-8-64, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects, rodent hairs, and rodent excreta pellets; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-1-65. Default—destruction.

30136. Doughnut mix and flour. (F.D.C. No. 50879. S. Nos. 105-034/5 A.)

QUANTITY: 22 100-lb. bags of doughnut mix and 7 100-lb. bags of flour at Seattle, Wash., in possession of Standard Warehouse & Transfer Co.

SHIPPED: Between 3-20-64 and 7-28-64, from Pendleton, Oreg.

LIBELED: On or about 12-10-64, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect webbing, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-18-65. Default—delivered to a public institution for use as animal feed.

CHOCOLATE, CONFECTIONERY, AND SUGAR**CHOCOLATE AND COCOA**

30137. Unsweetened chocolate. (F.D.C. No. 51144. S. Nos. 49-150/1 B.)

QUANTITY: 45 cases, each containing 6 10.7-lb. cakes, and 6 60-lb. cases, at Dunkirk, N.Y., in possession of Nog, Inc.

SHIPPED: 6-26-63 and 9-20-62, from New York, N.Y., and Newark, N.J., after having been imported into the United States from the Dominican Republic and from Haiti, respectively.

LIBELED: 3-10-65, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect larvae, insect parts, insect excreta, and insect webbing; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-29-65. Default—destruction.

30138. Cocoa beans. (F.D.C. No. 51167. S. No. 20-072 B.)

QUANTITY: 200 160-lb. bags, at San Francisco, Calif., in possession of Haslett Warehouse Co.

SHIPPED: 5-7-63, from Apia, Samoa.

LIBELED: 4-15-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-20-65. Consent—claimed by Ernest Adler Co., Inc. Segregated; 4,183 lbs. destroyed.

CONFECTIONERY

30139. Chocolate-coated peanuts. (F.D.C. No. 50922. S. Nos. 52-647 A, 52-649 A.)

QUANTITY: 28 cases, each containing 12 7¼-oz. boxes, and 61 cases, each containing 12 1-lb. bags, at Akron, Ohio.

SHIPPED: 11-17-64 and 12-2-64, from Oklahoma City, Okla., by Bunte Candies, Inc. (formerly Walter Williams Candy Co.).

LABEL IN PART: (Box) "Bunte Dipped Peanuts Pure Milk Chocolate * * * manufactured by Walter Williams Candy Co., Oklahoma City, Okla."; and (bag) "Bunte Pure Milk Chocolate Covered Chocolate Dipped Peanuts * * * manufactured by Bunte Candies, Inc. Oklahoma City, Oklahoma."

LIBELED: 1-18-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insect fragments and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-26-65. Default—destruction.

30140. Candy. (F.D.C. No. 51031. S. Nos. 38-787/89 A, 41-692/93 A, 41-695 A.)

INFORMATION FILED: 2-26-65, W. Dist. Okla., against Clayton Bingenheimer, t/a D&B Sales, Clinton, Okla.

ALLEGED VIOLATIONS: Between 4-10-64 and 7-14-64, the defendants caused candy to be placed in a building accessible to insects and exposed to contamination by insects, which acts resulted in the food being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-6-65. \$150 fine.

30141. Candy. (F.D.C. No. 50615. S. Nos. 42-438/9 X, 67-273 X, 74-246 X.)

INFORMATION FILED: 1-12-65, N. Dist. Tex., against Matthews Candy Co., a corporation, Dallas, Tex., and Ivan A. Matthews, Sr., president.

SHIPPED: Between 11-4-63 and 11-18-63, from Texas, to Missouri, Virginia, and New Jersey.

LABEL IN PART: (Bag) "KoKo-Nut Krisp Half Pound * * * Ingredients: Sugar, Corn Syrup, Pop Corn, Coconut, Peanuts, Vegetable Oil, Dairy Butter, Lecithin, Imitation Vanilla, Oat Flour. Matthews Candy Co. Dallas, Texas"; and (bag) "Matthews Crunchet * * * Ingredients: Sugar, Corn Syrup, Pop Corn, Peanuts, Salt, Bicarbonate of Soda, Dairy Butter, Imitation Vanilla, Oat Flour * * * Matthews Candy Co., Olympia, Wash., Dallas, Texas."

CHARGE: 402(a)(3)—contained rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty by Matthews Candy Co. to 3 counts; by Ivan A. Matthews to 1 count.

DISPOSITION: 4-8-65. Matthews Candy Co.—\$500 fine, and probation for 1 year; Ivan A. Matthews—\$250 fine.

30142. Candy. (F.D.C. No. 50963. S. Nos. 111-649/51 A.)

QUANTITY: 75 cases, each containing 12 7-oz. pkgs. of chocolate peanut clusters, 78 cases, each containing 12 5-oz. pkgs. of cashew clusters, 50 cases, each containing 12 7¼-oz. pkgs. of chocolate dipped peanuts, at Dallas, Tex.

SHIPPED: 11-17-64 and 11-14-64, from Oklahoma City, Okla., by Bunte Candies, Inc. (formerly Walter Williams Candy Co.).

LABEL IN PART: (Case) "Milk Choc Peanut Clusters * * * Mfg. by Bunte Candies, Inc., Oklahoma City, Oklahoma"; "Cashew Clusters * * * Mfg. by Bunte Candies, Inc., Oklahoma City, Oklahoma"; "Chocolate Dipped Peanuts * * * Mfg. by Bunte Candies, Inc., Oklahoma City, Oklahoma."

LIBELED: 12-31-64, N. Dist. Tex.

CHARGE: 402(a)(3)—when shipped, the peanut clusters contained rodent hairs, the cashew clusters contained insect fragments, and the chocolate dipped peanuts contained insects, insect larvae, and insect fragments.

DISPOSITION: 1-13-65. Consent—destruction.

SUGAR

30143. Raw sugar. (F.D.C. No. 51070. S. Nos. 38-741 B, 38-743/44 B.)

QUANTITY: 10,000 lbs., in 76 reused bags, at Brooklyn, N.Y.

SHIPPED: 3-5-64, from Manila, P. I.

RESULTS OF INVESTIGATION: The sugar was shipped in bulk by ship and was contaminated by sea water accidentally taken into the hold; the sugar was bagged while still wet.

LIBELED: 3-3-65, E. Dist. N.Y.

CHARGE: 402(a)(3)—while held for sale, contained insects and insect fragments, and was unfit for food because of contamination by sea water and the presence of wood splinters, stones, and metal fragments.

DISPOSITION: 4-12-65. Default—destruction.

DAIRY PRODUCTS**BUTTER**

30144. Butter. (F.D.C. No. 51499. S. No. 30-519 B.)

QUANTITY: 13 68-lb. boxes at Chicago, Ill.

SHIPPED: 6-2-65, from Freeman, S. Dak., by Farmer's Dairy & Produce Cooperative.

LABEL IN PART: (Box) "Real Butter From the Great Northwest * * * Paul's Polycoat Creamery Butter," and (stamp on box) "Creamery Butter Distributed by H. C. Christians Co. Chicago, Ill. 109."

LIBELED: 6-21-65, N. Dist. Ill.

CHARGE: 402(a) (3)—contained manure fragments and insect fragments when shipped.

DISPOSITION: 7-16-65. Default—destruction.

CHEESE

30145. Cheese and salami. (F.D.C. No. 50467. S. Nos. 7-555 X, 93-301 X, 93-303/4 X.)

INFORMATION FILED: 12-15-64, against Boston Italian Grocery Co., Inc., Boston, Mass.

ALLEGED VIOLATION: Between 2-4-63 and 11-14-63, while quantities of muenster cheese, provolone cheese, American cheese, and salami were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent hairs and insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-12-65. \$400 fine.

30146. Cheddar cheese. (F.D.C. No. 50832. S. No. 27-692 A.)

QUANTITY: 84 boxes at Chicago, Ill.

SHIPPED: 6-12-64, from DeKalb Junction, N.Y., by DeKalb Creameries, Inc.

LABEL IN PART: (Box) "New York State State Brand * * * Cheddar Cheese."

LIBELED: 11-30-64, N. Dist. Ill.

CHARGE: 403((g) (1)—when shipped, the article failed to conform to the definition and standard of identity for cheddar cheese since the article contained in its solids less than 50 percent milk fat.

DISPOSITION: 1-25-65. Default—delivered to a charitable institution.

30147. Cheddar cheese. (F.D.C. No. 51139. S. No. 27-119 B.)

QUANTITY: 15,000 lbs. in 5-lb. pkgs., at Minneapolis, Minn.

SHIPPED: 1-8-65, from Marshfield, Wis.

LABEL IN PART: (Pkg.) "Pasteurized Process Cheddar Cheese."

RESULTS OF INVESTIGATION: The train in which the article was being transported was wrecked on 1-10-65 at Dassel, Minn. The article had been damaged when the rail car in which it was being transported caught fire. The article was also subjected to water used to extinguish the fire.

LIBELED: 3-3-65, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed cheese, and was unfit for food by reason of being discolored and having a smoke odor while in transit.

DISPOSITION: 3-16-65. Consent—claimed by Great Northern Railway Co., St. Paul, Minn. Segregated; approximately 22,300 lbs. destroyed of a total of 34,800 lbs. which were subjected to salvage operations.

30148. Cheddar cheese. (F.D.C. No. 50952. S. No. 27-742 B.)

QUANTITY: 1,255 40-lb. boxes at St. Paul, Minn.

SHIPPED: 1-15-65, from Melbourne, Iowa.

RESULTS OF INVESTIGATION: The article had originally been shipped from St. Paul, Minn.; and the train transporting the article had been wrecked at Melbourne, Iowa. The article had been damaged when the rail car in which it was being transported caught fire. The article was also subjected to water used to extinguish the fire.

LIBELED: 2-16-65, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed cheese, charred material and had a smoke odor while in transit.

DISPOSITION: 2-23-65. Consent—claimed by Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Segregated; 257 boxes of cheese destroyed and the remainder reconditioned by reconditioning.

MISCELLANEOUS DAIRY PRODUCT

30149. Instant dry milk product. (F.D.C. No. 51003. S. Nos. 10-681 B, 105-963 A.)

QUANTITY: 388 cases, each containing 24 7 $\frac{2}{5}$ -oz. ctns., each ctn. containing 2 packets, at Seattle, Wash.

SHIPPED: Between 9-11-64 and 10-24-64, from Loleta, Calif., by Foremost Dairies, Inc.

LABEL IN PART: (Ctn.) "Instant Dry Milk Product Makes 2 Quarts Foremost Milkman Brand Made With Cream * * * Foremost Dairies, Inc., Distributors, San Francisco, Calif. * * * Contains: Nonfat dry milk, dry cream, lecithin, preservatives * * * Fat 7%."

RESULTS OF INVESTIGATION: Examination showed that the article was a cream-colored, fine granular substance having the appearance and texture of a dry milk product and containing approximately 8.8 percent fat.

LIBELED: 2-2-65, W. Dist. Wash.

CHARGE: 402(b)(1)—when shipped, a valuable constituent, butterfat, had been in whole or in part omitted or abstracted from the article; 402(b)(2)—a partially skimmed milk powder prepared from nonfat dry milk, dry cream, lecithin and preservatives had been substituted in whole or in part for whole milk powder; and 403(a)—the label bore false and misleading statements, which represented and suggested, in the setting in which they were presented, that the article was a whole milk powder.

DISPOSITION: 4-26-65. Default—delivered to charitable institutions for use as a food product.

FEEDS AND GRAINS

30150. Dried sugar beet pulp (2 seizure actions). (F.D.C. Nos. 50402; 50554. S. Nos. 15-301 A; 14-556/7 A.)

QUANTITY: 1,540 50-lb. bags at Sherborn, Acushnet, and Fairhaven, Mass.

SHIPPED: Between 10-30-63 and 5-11-64, from Winnipeg, Canada, by the Manitoba Sugar Co., Ltd.

LABEL IN PART: (Bag) "Plain Dried Beet Pulp * * * Manufactured by The Manitoba Sugar Co., Ltd. Winnipeg, Man. Product of Canada."

RESULTS OF INVESTIGATION: Examination showed that the article contained heptachlor epoxide and (some of the article) heptachlor, pesticide chemicals in excess of the established tolerance for the raw agricultural commodity, sugar beets, from which the article was processed; and there was no regulation or exemption for heptachlor epoxide or heptachlor as a food additive in or on dried sugar beet pulp.

LIBELED: 7-23-64 and 8-24-64, Dist. Mass.

CHARGE: 402(a)(2)(C)—when shipped, the article contained the pesticide chemical, heptachlor epoxide, and (some of the article) heptachlor, which were food additives, and which were unsafe within the meaning of 409, since they and their use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 10-26-64. Default—destruction.

30151. Dried sugar beet pulp. (F.D.C. No. 51444. S. No. 7-290 B.)

QUANTITY: 355 50-lb. bags at Cedar Rapids, Iowa.

SHIPPED: 10-19-64, from East Grand Forks, Minn., by American Crystal Sugar Co.

LABEL IN PART: (Bag) "Plain Dried Beet Pulp—Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 6-25-65, N. Dist. Iowa.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 7-26-65. Default—destruction.

FISH AND SHELLFISH

30152. Frozen clam meat (2 seizure actions). (F.D.C. Nos. 50720; 50724. S. Nos. 64-193 A; 98-908 A.)

QUANTITY: 70 cases, each containing 6 unlabeled 5-lb. plastic bags, at Oakland, Calif.; and 19 cases, each containing 12 5-lb. ctns., at San Francisco, Calif.

SHIPPED: Between 8-22-64 and 8-25-64, from Ensenada, Baja California, Mex.

LIBELED: 10-23-64; 10-21-64; N. Dist. Calif.

CHARGE: 402(a)(3)—while held for sale, the 70-case lot contained *E. coli* and decomposed clam meat, and the 19-case lot contained excessive coliforms and *E. coli*.

DISPOSITION: 12-8-64. Consent—claimed by Chesapeake Fish Co., San Diego, Calif. Denatured and labeled "Bait."

30153. Frozen haddock fillets. (F.D.C. No. 50993. S. No. 17-987 A.)

QUANTITY: 368 ctns., each containing 12 1-lb. pkgs., at Boston, Mass.

SHIPPED: These fillets were from fish caught by an unknown fishing vessel in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, and landed at Boston, Mass., prior to 12-24-64.

LIBELED: 1-27-65, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish fillets when shipped.

DISPOSITION: 4-20-65. Default—destruction.

30154. Frozen haddock fillets. (F.D.C. No. 50739. S. No. 94-085 A.)

QUANTITY: 321 cases, each containing 10 5-lb. ctns., at St. Louis, Mo.

SHIPPED: 9-9-64, from New Bedford, Mass., by Ell Vee Dee, Inc.

LABEL IN PART: (Ctn.) "Ell Vee Dee Brand Atlantic Ocean Haddock Fillets
* * * Packed by Ell Vee Dee, Inc., New Bedford, Mass."

LIBELED: 11-18-64, E. Dist. Mo.

CHARGE: 402(b)(2)—when shipped, codfish fillets had been substituted in whole or in part for haddock fillets; 403(a)—the label statement "Haddock Fillets" was false and misleading as applied to a product consisting of codfish fillets; and 403(b)—fillets of codfish had been offered for sale under the name of another food, haddock fillets.

DISPOSITION: 2-24-65. Consent—claimed by Ell Vee Dee, Inc., and repacked and relabeled.

30155. Frozen haddock fillets. (F.D.C. No. 50717. S. No. 22-977 A.)

QUANTITY: 168 cases, each containing 5 unlabeled 10-lb. ctns. of individually wrapped unlabeled fish fillets, at Utica, N.Y.

SHIPPED: 9-22-64, from Boston, Mass., by Columbia Seafood Corp.

LABEL IN PART: (Case) "Skinless Haddock Fillets Frozen * * * Columbia Seafoods."

RESULTS OF INVESTIGATION: Examination showed the article to consist of fillets of codfish, not haddock, as declared on the case label.

LIBELED: 10-12-64, N. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, fillets of cod had been substituted in whole or in part for haddock fillets; 403(a)—the label statement (case) "Haddock Fillets" was false and misleading as applied to a product consisting of codfish fillets; 403(b)—fillets of codfish were offered for sale under the name of another food, haddock fillets; 403(e)—the article failed to bear a label containing (carton and wrapper) (1) the name and address of the manufacturer, packer, or distributor, and (carton) (2) an accurate statement of the quantity of the article; and 403(i)(1)—the carton and wrapper label failed to bear the common or usual name of the food.

DISPOSITION: 1-27-65. Consent—claimed by Mohawk Frozen Foods, Inc., as owner and agent for Columbia Seafood, Inc., for relabeling.

30156. Frozen halibut. (F.D.C. No. 51011. S. No. 38-023 B.)

QUANTITY: Approximately 1,215 lbs. in ctns. at Monmouth Beach, N.J.

SHIPPED: 7-10-64, from New York, N.Y., by R. J. Cornelius, Inc.

LABEL IN PART: (Ctns.) "Halibut."

LIBELED: 2-5-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed halibut when shipped.

DISPOSITION: 3-23-65. Default—destruction.

30157. Frozen ocean perch fillets. (F.D.C. No. 51380. S. No. 43-679 B.)

QUANTITY: 112 cases, each containing 10 5-lb. ctns., at Portland, Maine, in possession of Portland Fish Co., Inc.

SHIPPED: These fillets were from fish caught by the fishing vessel "Alice M. Daughty II" in the waters of the Atlantic Ocean outside the territorial limits of Maine on or about 4-26-65.

LABEL IN PART: (Ctn.) "State-O-Maine Brand Ocean Perch Fillets * * * Portland Fish Company, Inc., Portland, Maine."

LIBELED: 5-17-65, Dist. Maine.

CHARGE: 402(a)(3)—contained parasitic copepods while held for sale and when shipped.

DISPOSITION: 5-18-65. Consent—claimed by Portland Fish Co., Inc., Portland, Maine and reconditioned.

30158. Frozen ocean perch fillets. (F.D.C. No. 51113. S. No. 43-313 B.)

QUANTITY: 171 cases, each containing 5 10-lb. individually wrapped ctns., at Portland, Maine.

SHIPPED: The fillets were from fish caught by the fishing vessel "Vandal" in the waters of the Atlantic Ocean outside the territorial waters of the State of Maine between 2-12-65 and 2-15-65, and were prepared and packed by Central Wharf Fisheries, Inc., Portland, Maine.

LABEL IN PART: (Insert label) "Silver Bay Brand Ocean Perch Fillets To be weighed at time of sale—Product of U.S.A. Packed by Central Wharf Fisheries, Inc. Portland, Maine."

LIBELED: 3-12-65, Dist. Maine.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped and while held for sale.

DISPOSITION: 3-22-65. Consent—claimed by Central Wharf Fisheries, Inc. Reconditioned; 1,255 lbs. destroyed.

30159. Frozen shrimp. (F.D.C. No. 51409. S. No. 38-776 B.)

QUANTITY: 9 unlabeled ctns., each containing 10 pkgs., at Brooklyn, N.Y.

SHIPPED: 3-2-65, from Boston, Mass., by Independent Crab.

LABEL IN PART: (Pkg.) "Small cooked 150/250 or Larger" and "4 Lb."

RESULTS OF INVESTIGATION: Examination showed that the article was 31.6 per cent short weight.

LIBELED: 6-18-65, E. Dist. N.Y.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and address of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents; and 403(i)(1)—the article's label failed to bear the common or usual name of the food.

DISPOSITION: 7-26-65. Default—destruction.

30160. Frozen shrimp. (F.D.C. No. 51411. S. Nos. 121-464/5 B.)

QUANTITY: 18 cases, each containing 10 5-lb. pkgs., at New York, N.Y.

SHIPPED: 11-19-64, from New York, N.Y., to Baton Rouge, La., by Danny Katz, and thereafter returned to New York, N.Y.

LABEL IN PART: (Pkg.) "Fresh Frozen Shrimp Headless Arrow Brand Product of Pakistan * * * Reyza-O-Khalid Fisheries Limited Karachi, Pakistan."

LIBELED: 6-7-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed shrimp when shipped.

DISPOSITION: 7-29-65. Default—destruction.

30161. Frozen squid. (F.D.C. No. 51009. S. No. 38-035 B.)

QUANTITY: 1,064 lbs. at Monmouth Beach, N. J.

SHIPPED: 8-20-64, from New York, N.Y., by J. Favaloro & Son, Inc.

LIBELED: 2-5-65, Dist. N.J.

CHARGE: 403(a)(3)—contained decomposed squid when shipped.

DISPOSITION: 3-23-65. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

30162. Canned pears. (F.D.C. No. 51107. S. No. 56-842 B.)

QUANTITY: 23 cases, each containing 6 6-lb. 10-oz. cans, at Baltimore, Md.

SHIPPED: 10-15-64, from Fennville, Mich., by Michigan Fruit Cannery, Inc.

LABEL IN PART: (Can) "Rustic 35-40 Count Whole Spiced Kieffer Pears * * * In Extra Heavy Sirup * * * Packed by Michigan Fruit Cannery, Inc. * * * Benton Harbor, Mich."

RESULTS OF INVESTIGATION: Examination showed that the cans had holes.

LIBELED: On or about 3-10-65, Dist. Md.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for canned pears since it was not sealed in a container and so processed by heat as to prevent spoilage.

DISPOSITION: 4-7-65. Default—destruction.

DRIED FRUIT

30163. Dried apricots and dried peaches. (F.D.C. No. 50481. S. Nos. 12-386/7 A.)

INFORMATION FILED: 12-15-64, Dist. Mass., against J. Sklar & Co., Inc., a corporation, Boston, Mass., and Alan Sklar.

ALLEGED VIOLATION: Between 4-8-63 and 1-28-64, while quantities of dried apricots and dried peaches were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-28-65. Corporation—\$500 fine; individual—\$200 fine, with 3 years' probation.

30164. Dried prunes. (F.D.C. No. 51259. S. No. 10-199 B.)

QUANTITY: 110 25-lb. cases at Seattle, Wash.

SHIPPED: 2-11-65, from Forest Grove, Oreg., by Oregon Prune Exchange.

LABEL IN PART: (Case) "Ziegler * * * Mistland Oregon Prunes * * * Oregon Prune Exchange Forest Grove, Ore."

LIBELED: On or about 4-15-64, W. Dist. Wash.

CHARGE: 402(a)(3)—when shipped, contained rodent hairs; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 5-24-65. Default—delivered to a public institution for use as animal feed.

PRESERVES

30165. Strawberry preserves. (F.D.C. No. 51015. S. Nos. 7-447/8 B.)

QUANTITY: 47 variously labeled cases, each containing 12 unlabeled plastic bags, each bag containing approximately 1½ lbs. of strawberry preserves, and 112 unlabeled jars, each containing an unlabeled plastic bag containing approximately 1½ lbs. of strawberry preserves, at Waterloo, Iowa, in possession of Holiday Foods.

SHIPPED: 11-30-64 and 12-7-64, from Milford, Mich., by Owen & Mowrey, Inc.

LABEL IN PART: (Case) "Genuine Premium Quality Holiday Brand eating greeting."

RESULTS OF INVESTIGATION: The article was shipped in unlabeled plastic bags. The dealer repacked the unlabeled plastic bags into unlabeled jars; and repacked the jars into the cases described above.

LIBELED: 2-8-65, N. Dist. Iowa.

CHARGE: 403(e)—when shipped and while held for sale, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, (2) an accurate statement of the quantity of contents; and 403(g)(2)—the article purported to be strawberry preserves, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the food specified in such definition and standard.

DISPOSITION: 3-30-65. Default—delivered to local charitable institutions.

VEGETABLES AND VEGETABLE PRODUCTS*

30166. Dried pinto beans. (Inj. No. 496.)

COMPLAINT FOR INJUNCTION FILED: 10-2-64, Dist. Colo., against Farmers' Union Marketing Association, a corporation, Byers, Colo., and Outwest Bean, Inc., a corporation, Denver, Colo.

CHARGE: The complaint for injunction alleged that the Farmers' Union Marketing Association was engaged in the operation, at Byers, Colo., of a processing and storage plant, and in delivering to Outwest Bean, Inc., for introduction into interstate commerce, and introducing into interstate commerce pursuant to orders received from Outwest Bean, Inc., pinto beans for human consumption.

The complaint alleged further that Outwest Bean, Inc., was engaged in purchasing said pinto beans from Farmers' Union Marketing Association and causing this food to be introduced and delivered for introduction into interstate commerce.

*See also No. 30126.

It was alleged also that the above-mentioned pinto beans, when introduced and delivered for introduction into interstate commerce as aforesaid, consisted in part of a filthy substance by reason of the presence therein of rodent excrement and urine and bird excrement, and had been processed and held at the plant of the Farmers' Union Marketing Association, Byers, Colo., under insanitary conditions whereby it may have become contaminated with filth, thereby rendering this food adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged further that the insanitary conditions in the plant of the Farmers' Union Marketing Association at Byers, Colo., resulted from and consisted of the presence of the following: (A) on the southwest side of the warehouse 5 bags of pinto beans with bird droppings on them and 2 bags of pinto beans with urine stains and mouse pellets; between the bags there was a mouse runway; (B) on the east side of the warehouse 20 bags of pinto beans were urine-stained and contaminated with mouse pellets; laboratory analysis confirmed urine on the beans beneath the stains. One bag was mouse-chewed and contained a mouse nest; (C) on the northeast corner of the warehouse 39 bags of pinto beans were found with from 1 to 75 bird droppings per bag on them; laboratory analysis confirmed bird excreta on some of the beans beneath them; 43 bags had urine stains and mouse pellets on them; mouse pellets were noted on the floor around the bags; (D) on the north side of the warehouse 21 bags of pinto beans had urine stains and mouse excreta pellets on them; laboratory analysis confirmed urine on beans beneath the stains; 1 bag had a mouse-chewed hole in it; (E) the warehouse was in a poor state of repair; (F) mice and birds had free access to the storage area through the eaves and walls; (G) roof leaks were indicated by large patches of snow found on the beans in storage.

It was alleged also that Outwest Bean, Inc., had on hand at its place of business at Denver, Colo., approximately 1,500 100-lb. bags of pinto beans which were adulterated in the manner described above and which were received from the plant of the Farmers' Union Marketing Association at Byers, Colo., on or about 5-1-64 and 5-6-64, and which were then awaiting sale and shipment in interstate commerce.

It was alleged further that both defendants had violated 301(a) by introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, the above-mentioned pinto beans which had been processed and held at the plant of the Farmers' Union Marketing Association at Byers, Colo., and which were adulterated within the meaning of 402(a)(3) and 402(a)(4).

It was alleged further that unless enjoined the defendants would continue to introduce and cause to be introduced and delivered for introduction into interstate commerce, the pinto beans adulterated in the above-described manner.

DISPOSITION: On 10-5-64, a consent decree of permanent injunction was filed which enjoined both defendants and each and all of their officers, agents, servants, employees, representatives and all and any persons in active concert or participation with them from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, and more particularly from delivering or causing to be delivered to persons in the State of Colorado known to be engaged in the distribu-

tion of food in interstate commerce, in violation of 301(a), pinto beans for human consumption and any similar articles of food then held at the plant of the Farmers' Union Marketing Association, at Byers, Colo., unless and until (a) the Byers plant of the Farmers' Union Marketing Association was thoroughly cleaned and renovated and rendered suitable for use in connection with the processing and storing of pinto beans for human consumption and any similar article of food, to wit, unless and until all rodent and bird filth was removed from that plant; all rodent and bird infestation in and about said plant was eliminated; the means of ingress and egress of the plant by rodents and birds were closed; and any similar insanitary conditions which might result in pinto beans for human consumption and any similar article of food being contaminated with filth while processed or stored at said plant were eliminated; and (b) all of the pinto beans which were on hand at the Byers plant of the Farmers' Union Marketing Association at the time that plant was cleaned, renovated, and rendered suitable for the processing and storing of pinto beans for human consumption, were destroyed, denatured for use as animal food or for use as seed, or cleaned or otherwise brought into compliance with the law under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision were paid by the defendants. It was also specified that the injunction did not cover the grain storage and processing operations in the concrete elevator of Farmers' Union Marketing Association in Byers, Colo.

The defendant, Outwest Bean, Inc., was also enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, and more particularly from delivering or causing to be delivered to persons in the State of Colorado who were known to be engaged in the distribution of food in interstate commerce, in violation of 301(a), the stock of pinto beans consisting of approximately 1,500 100-lb. bags received by Outwest Bean, Inc., from Farmers' Union Marketing Association on or about May 1 and May 6, 1964, and which were on hand at the warehouse of Outwest Bean, Inc., at Denver, Colo., unless and until such stock of pinto beans was destroyed, denatured for use as animal feed or for use as seed, or cleaned, or otherwise brought into compliance with the law under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision were paid by the defendants.

Further, the defendants, Farmers' Union Marketing Association and Outwest Bean, Inc., their officers, agents, servants, employees, representatives, and all and any persons in active concert or participation with them or any of them who received actual notice of this decree by personal service or otherwise, were enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, and more particularly from delivering or causing to be delivered to persons in the State of Colorado who were known to be engaged in the distribution of food in interstate commerce, in violation of 301(a), pinto beans for human consumption and any similar articles of food which were adulterated within the meaning of 402(a) in that they consisted in part of a filthy substance, and within the meaning of Section 402(a)(4) in that they had been processed and held under insanitary conditions whereby they might have become contaminated with filth.

30167. Dried Great Northern beans. (F.D.C. No. 50792. S. Nos. 96-308 A, 96-919 A.)

INFORMATION FILED: 3-26-65, Dist. Idaho, against Bean Growers Warehouse Association, Inc., Filer, Idaho, and John P. Smith, general manager and treasurer, Lyman C. Caughey, warehouse manager at Buhl, Idaho, and Merle R. Allison, warehouse manager at Filer, Idaho.

SHIPPED: 1-31-64, from Filer, Idaho, to Santa Clara, Calif., and 1-28-64, from Buhl, Idaho, to Santa Clara, Calif.

LABEL IN PART: (Bags) "Outwest Brand Idaho Great Northern Beans Packed by Bean Growers Whse. Assn. Inc. Twin Falls, Idaho."

CHARGE: 402(a)(3)—when shipped, contained urine; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Guilty by the corporation and Smith to 2 counts each, and by Caughey and Allison to 1 count each.

DISPOSITION: 5-10-65. Corporation—\$400 fine, Smith—\$200 fine, Caughey—\$100 fine, and Allison—\$100 fine.

30168. Endive. (F.D.C. No. 49690. S. Nos. 1-240 R, 46-121 R, 3-139 V, 37-819 V.)

INFORMATION FILED: 3-19-64, S. Dist. Fla., against Gressinger & Sons, a partnership, Belle Glade, Fla.

SHIPPED: Between 1-31-61 and 12-3-62, from Florida to Connecticut, Georgia, Alabama, and West Virginia.

LABEL IN PART: (Crate) "4 Brothers Quality Vegetables Gressinger & Sons Hartville, Ohio—Belle Glade, Florida."

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, parathion, which was unsafe under 408(a) since the quantity of such pesticide chemical on endive was not within the limits of the tolerance prescribed by regulations.

PLEA: Not guilty which plea was subsequently changed to guilty.

DISPOSITION: On 4-17-64, the defendant filed a motion to dismiss all counts on the grounds that (1) the offenses alleged in such counts were only one offense which had been improperly split up into separate counts; or, in the alternative, that the Government be required to elect which count it intended to prosecute; (2) that the offenses charged were so vague, indefinite, and uncertain that a conviction or acquittal would not protect the defendant from future prosecution for the same offense and transaction; and (3) that each count charged two distinct violations or, in the alternative, that the Government be required to elect which of the two distinct violations it intended to prosecute.

On 4-17-64, the defendant also filed a motion for a bill of particulars, and a motion for discovery and inspection of the bills of lading and sample quantities of the endive involved. A subpoena for production of certain chemists' reports was also filed by the defendant.

On 5-4-64, a hearing was held on the defendant's motions.

On 6-15-64, the court entered an order pursuant to which the defendant's motion to dismiss was denied, its motion for a bill of particulars was granted in part and denied in part, and defendant's motion for discovery and inspection was granted.

The court also granted the Government's motion to quash the defendant's subpoena for chemists' records.

On 7-31-64, the defendant changed its plea to guilty. On 7-31-64 the defendant was fined \$4,000.

30169. Dried pinto beans. (F.D.C. No. 50050. S. No. 96-934 A.)

QUANTITY: 430 100-lb. bags, at San Leandro, Calif.

SHIPPED: 3-2-64, from Buhl, Idaho, by Shields Seed Co.

LABEL IN PART: (Bag) "Idaho Pinto Beans Blick Seed Co. * * * Castleford, Idaho."

LIBELED: 4-20-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine when shipped.

DISPOSITION: 6-18-64. Consent—claimed by Blick Seed Co. Segregated; 10 bags destroyed.

30170. Dried pinto beans. (F.D.C. No. 50884. S. Nos. 36-346/8 A.)

QUANTITY: 93 100-lb. bags at McAllen, Tex., and 707 100-lb. bags at Harlingen, Tex.

SHIPPED: Between 11-5-64 and 11-14-64, from Greeley, Colo.

RESULTS OF INVESTIGATION: The beans had been stored under insanitary conditions at the Sharboneau Brokerage Co., Harlingen, Tex., in rodent-contaminated bags in a rodent-infested warehouse. The 93-bag lot of beans had been re-shipped from Harlingen to McAllen, Tex., by Sharboneau Brokerage Co.

LIBELED: 12-28-64, S. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-9-65. Consent—claimed by Sharboneau Brokerage Co. Re-conditioned and segregated; 1,000 lbs. converted into animal feed.

30171. Dried pinto beans. (F.D.C. No. 50899. S. No. 112-885 A.)

QUANTITY: 72 100-lb. bags, at San Antonio, Tex., in possession of National, Inc.

SHIPPED: 11-3-64, from Greeley, Colo.

LIBELED: 12-24-64, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-19-65. Consent—claimed by National, Inc. Segregated and reconditioned; 199 lbs. destroyed.

30172. Frozen breaded onion rings. (F.D.C. No. 51291. S. No. 10-588 B.)

QUANTITY: 50 cases, each containing 6 4-lb. ctns., at Tacoma, Wash.

SHIPPED: 3-6-65, from Los Angeles, Calif., by Coronet Foods Corp.

LABEL IN PART: (Ctn.) "Frozen Raw Breaded Onion Rings * * * Coronet Foods Corp. Los Angeles, California."

LIBELED: 5-3-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained a high total bacterial count, excessive coliforms, and excessive *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-24-65. Default—destruction.

30173. Frozen hash brown potatoes. (F.D.C. No. 51151. S. No. 29-461 B.)

QUANTITY: 96 15-lb. cases at Duluth, Minn.

SHIPPED: 1-19-65, from Twin Falls, Idaho, by Idaho Frozen Foods, Inc.

LABEL IN PART: (Case) "Rus-Ettes Shredded Hash Brown Potatoes * * * Packed In Idaho By Idaho Frozen Foods, Inc., Kimberly, Idaho."

LIBELED: 3-18-65, Dist. Minn.

CHARGE: 402(a)(3)—contained excessive coliforms, a high total bacterial count, coagulase positive staphylococci, and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-29-65. Default—destruction.

30174. Mung beans and rice. (F.D.C. No. 50992. S. Nos. 15-601/3 B.)

QUANTITY: 9 100-lb. bags of mung beans, and 441 50-lb. bags of rice, at Los Angeles, Calif., in possession of Mutual Trading Co., Inc.

SHIPPED: Between 3-2-64 and 12-22-64, from Enid, Okla., and Stuttgart, Ark.

LIBELED: 1-29-65, S. Dist. Calif.

CHARGE: 402(a)(3)—the articles contained rodent urine, and the beans were rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-3-65. Consent—claimed by Mutual Trading Co., Inc. The beans were destroyed. The rice was segregated and reconditioned; 350 lbs. were destroyed.

30175. Canned red beans. (F.D.C. No. 50945. S. No. 5-609 B.)

QUANTITY: 1,885 cases, each containing 24 1-lb. cans, at Omaha, Nebr.

SHIPPED: 1-21-65, from Grimes, Iowa, by Beaver Valley Canning Co.

LABEL IN PART: (Can) "Chili-Ets Mexican Style Red Beans In Chili Gravy—Distributed By Central Retailer-Owned Grocers, Inc., Northlake, Ill."

LIBELED: 2-12-65, Dist. Nebr.

CHARGE: 402(a)(3)—contained decomposed beans when shipped.

DISPOSITION: 5-25-65. Default—destruction.

30176. Canned red beans. (F.D.C. No. 51141. S. No. 46-103 B.)

QUANTITY: 227 cases of 24 1-lb. cans each, at Little Chute, Wis.

SHIPPED: 1-21-65, from Grimes, Iowa, by Beaver Valley Canning Co.

LABEL IN PART: (Can) "Chili-Ets Mexican Style Red Beans in Chili Gravy—Distributed by Central Retailer-Owned Grocers, Inc., Northlake, Ill."

LIBELED: 3-8-65, E. Dist. Wis.

CHARGE: 402(a)(3)—contained decomposed beans when shipped.

DISPOSITION: 6-29-65. Default—destruction.

30177. Canned red beans. (F.D.C. No. 50891. S. No. 111-423 A.)

QUANTITY: 62 cases, 24 cans each, at Nebraska City, Nebr.

SHIPPED: 11-23-64, from Cherokee, Iowa. This was a return shipment.

LABEL IN PART: (Can) "Otoe's Finest Brand * * * Red Beans Net Contents 15½ Ozs. * * * Packed in Morton House Kitchens, Inc., Nebraska City, Nebr."

LIBELED: 12-21-64, Dist. Nebr.

CHARGE: 402(a)(3)—contained decomposed beans when shipped.

DISPOSITION: 2-15-65. Consent—claimed by Morton House Kitchens, Inc. Segregated; 168 cans destroyed.

30178. Green split peas and black-eyed peas. (F.D.C. No. 51152. S. Nos. 2-764/5 B.)

QUANTITY: 55 100-lb. bags of split peas, and 18 25-lb. bags of black-eyed peas at Cincinnati, Ohio, in possession of D & D Bean Co., Distribution Center.

SHIPPED: Between 10-2-64 and 10-6-64, from Greeley, Colo.

LIBELED: 3-26-65, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-30-65. Default—destruction.

30179. Dried split peas and dried lupine beans. (F.D.C. No. 50249. S. Nos. 20-513/14 A.)

QUANTITY: 2 100-lb. bags of dried split peas and 21 110-lb. bags of dried lupine beans at Pittsburgh, Pa., in possession of Pennsylvania Macaroni Co., Inc.

SHIPPED: Between approximately 1-1-63 and 12-6-63, from Indianapolis, Ind., and from Italy.

LIBELED: 7-8-64, W. Dist. Pa.

CHARGE: 402(a)(3)—the split peas contained insects, insect parts, and insect fragments; and 402(a)(4)—both of the articles were held under insanitary conditions.

DISPOSITION: On 7-28-64, the Pennsylvania Macaroni Co., Inc., claimant, filed an answer in which they denied that the articles were adulterated and averred that the articles were of such character that they had a hard-shell finish and could not have been adulterated or contaminated in the place in which they were stored, that the presence of insects in the room or on the outside of the articles would not of necessity contaminate or adulterate, that the storeroom had been cleaned and sprayed, that there were no longer any insects present, and that no damage had been done to the article. On 12-7-64, the Government filed a motion for summary judgment. On 1-6-65, the court granted the Government's motion; and on 1-11-65, the court condemned the articles. On 1-13-65, the articles were released to a Government institution for use as animal feed.

30180. Diced red peppers. (F.D.C. No. 51243. S. No. 84-761 B.)

QUANTITY: 27 50-gal. bbls. at Houston, Tex.

SHIPPED: 1-18-65, from Chicago, Ill., by Manhattan Pickle Co.

LABEL IN PART: (Sticker on bbl.) "Manhattan Diced Red Peppers Contains: Red Peppers, Salt and Vinegar * * * Packed by Manhattan Pickle Company Chicago, Illinois."

LIBELED: 4-1-65, S. Dist. Tex.

CHARGE: 40402(a)(3)—contained insects, insect larvae, and insect fragments when shipped.

DISPOSITION: 5-6-65. Default—destruction.

30181. Canned pork and beans. (F.D.C. No. 50722. S. No. 86-174 A.)

QUANTITY: 65 cases, each containing 48 1-lb. cans, at Springfield, Mo.

SHIPPED: 9-15-64, from Lawrence, Kans.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 10-16-64, W. Dist. Mo.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-20-65. Default—destruction.

30182. Canned spinach. (F.D.C. No. 50771. S. No. 35-985 A.)

QUANTITY: 120 cases of 6 6-lb. 6-oz. cans each, at Nashville, Tenn.

SHIPPED: 4-1-64, from Cullman, Ala.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 12-8-64, M. Dist. Tenn.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-8-65. Default—destruction.

30183. Wild lettuce leaves. (F.D.C. No. 51290. S. No. 38-869 B.)

QUANTITY: 2 200-lb. bales, at New York, N.Y., in possession of Fidelity Warehouse Co., Inc.

SHIPPED: 11-6-62, from Bristol, Tenn.

LIBELED: 5-21-65, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-24-65. Default—destruction.

NUTS AND NUT PRODUCTS

30184. Unshelled filberts and rice. (F.D.C. No. 49546. S. Nos. 21-866/7 V.)

INFORMATION FILED: 7-21-64, Dist. Colo., against Tri-County Organic Co-op, a corporation, Denver, Colo., and James H. Fowler, secretary and manager.

ALLEGED VIOLATION: Between 1-5-62 and 1-18-63, while quantities of filberts and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with rodents, and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent urine and rodent pellets; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: On 8-24-64, the defendants, having initially pleaded not guilty, filed a motion to dismiss the information on the following grounds: that the facts stated were insufficient; that the violations alleged were of infamous nature and should be brought by indictment; that the statutes charged, violated the 5th Amendment to the United States Constitution due to vagueness and indefiniteness, violated the 6th Amendment for failure to inform concerning the nature and cause of the prosecution, violated the 1st Amendment in that the statutes abridged freedom of speech and expression, and violated the 10th Amendment in that the statutes were an unlawful invasion by the Federal Government into the powers reserved to the states or to the people; and that the penalties of the statute constituted cruel and unusual punishment against a small segment of the community in violation of the 8th Amendment. On 10-2-64, the defendants' motion was argued before the court, and was denied on that date by the court.

On 3-26-65, the defendants pleaded nolo contendere to 2 counts. On 4-16-65, the corporation was fined \$2,000 of which \$1,500 was suspended; and the individual was sentenced to 6 months' imprisonment which was suspended, and was placed on probation for 1 year.

30185. Shelled almonds. (F.D.C. No. 51384. S. No. 9-210 B.)

QUANTITY: 18 25-lb. cases at Seattle, Wash.

SHIPPED: 9-15-64, from Chico, Calif.

LIBELED: On or about 5-14-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect webbing, insect excreta, and insect-damaged nuts while held for sale.

DISPOSITION: 6-18-65. Default—delivered to a Government institution for use as animal feed.

30186. Shelled almonds. (F.D.C. No. 50764. S. Nos. 122-569/71 A.)

QUANTITY: 62 100-lb. bags at Minneapolis, Minn.

SHIPPED: 10-30-64, from Sacramento, Calif.

LIBELED: 12-4-64, Dist. Minn.

CHARGE: 402(a)(3)—contained insect fragments, insect webbing, insect excreta, and insect-damaged nuts while held for sale.

DISPOSITION: 1-8-65. Consent—claimed by California Almond Growers Exchange, Sacramento, Calif. Segregated and reconditioned; 282 lbs. destroyed.

30187. Shelled mixed nuts. (F.D.C. No. 49088. S. Nos. 85-004/5 V.)

QUANTITY: 108 cases, each containing 12 cans, at Bellevue, Wash., and 136 cases, each containing 24 cans, at Seattle, Wash.

SHIPPED: 4-11-63 and 5-16-63, from Portland, Oreg., by Johnson Nut Co.

LABEL IN PART: "Crest-Pac Salted Mixed Nuts 13 Oz. Net Weight * * * Johnson Nut Company Minneapolis Portland Winnipeg Peanuts, Cashews, Almonds, Brazils, Walnuts or Pecans."

RESULTS OF INVESTIGATION: Examination showed that the cans of both lots of the article were filled to approximately 57 percent of the capacity of the cans and that neither lot of the article contained any pecans. Inside the can, the nuts were contained in a waxed paper bag which had been wadded at the top and the wad was stuffed down into the center of the nuts so that when the can was opened the nuts inside the bag surrounding the center wad of paper would be visible. The article was also found to be between approximately 3.54 percent and 4.31 percent short weight.

LIBELED: 6-24-63, W. Dist. Wash.

CHARGE: 403(a)—when shipped, the label declaration of ingredients of the article, including "Pecans" was false and misleading, since the article contained no pecans, and the label vignette depicting substantial quantities of nuts other than peanuts, including pecans, was false and misleading for an article containing predominantly peanuts with small amounts of nuts other than peanuts and no pecans; 403(d)—the article's container was so filled as to be misleading, since the nuts occupied approximately 57 percent of the capacity of the cans and additional nuts could be packed in the can with no physical packaging difficulty; and 403(e)(2)—the article was food in package form and it failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "13 Oz. Net Weight" was inaccurate.

DISPOSITION: 8-6-63. Consent—claimed by Johnson Nut Co., Portland, Oreg., and repacked and relabeled.

30188. Unshelled mixed nuts. (F.D.C. No. 50754. S. No. 118-884 A.)

QUANTITY: 16 50-lb. bags at Mason City, Iowa.

SHIPPED: 10-19-64, from Dallas, Tex.

LIBELED: 11-27-64, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained insect webbing, insect excreta, moldy nuts, shriveled nuts, and empty shells, while held for sale.

DISPOSITION: 12-28-64. Default—delivered to a charitable institution on condition that the unfit portion be segregated and destroyed.

30189. Unshelled mixed nuts. (F.D.C. No. 50858. S. No. 118-473 A.)

QUANTITY: 41 cases, each containing 24 1-lb. bags, at Pittsburg, Kans.

SHIPPED: 10-30-63 and 11-4-63, from Dallas, Tex.

LIBELED: 12-1-64, Dist. Kans.

CHARGE: 402(a)(3)—contained insects, insect webbing, insect-damaged nuts, moldy nuts, and shriveled nuts while held for sale.

DISPOSITION: 12-15-64. Default—destruction.

30190. Shelled pecans. (F.D.C. No. 50394. S. Nos. 1-117/18 A, 3-271 A, 3-273 A.)

QUANTITY: 215 30-lb. boxes at Waycross, Ga.

SHIPPED: 5-21-64, from Dallas, Tex., by Gold Kist Pecan Growers.

LABEL IN PART: (Box) "Med. [or "Large"] Pieces."

LIBELED: 7-16-64, S. Dist. Ga.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-19-64. Consent—claimed by Goldkist Pecan Growers of Waycross, Ga., a Div. of Cotton Producers Association. Reconditioned and segregated; 8 boxes destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

30191. Poppyseed and mustard seed. (F.D.C. No. 50292. S. Nos. 37-503 A, 37-505/7 A, 37-509/11 A.)

QUANTITY: 12 bags of 110 lbs. of poppyseed and 942 bags of 50 kilos and 496 bags of 110 lbs. of mustard seed, at Dallas, Tex., in possession of HLH Products Co.

SHIPPED: Between 12-12-62 and 2-15-64, from outside the State of Texas.

LIBELED: 7-22-64, N. Dist. Tex.

CHARGE: 402(a)(3)—all lots contained rodent urine and a portion of the mustard seed contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-27-64. Consent—claimed by HLH Products Co., Dallas, Tex. Reconditioned; 40,370 lbs. of mustard seed and 86 lbs. of poppyseed destroyed.

30192. Caraway seed and poppyseed. (F.D.C. No. 50773. S. Nos. 120-285/7 A.)

QUANTITY: 20 110-lb. bags of caraway seed, and 248 110-lb. bags of poppyseed, at Los Angeles, Calif., in possession of Westco Products, Inc.

SHIPPED: Between 3-10-64 and 10-23-64, from the Netherlands.

LIBELED: 12-10-64, S. Dist. Calif.

CHARGE: 402(a)(3)—all of the articles except 200 bags of poppyseed contained rodent urine; and 402(a)(4)—all of the articles were held under insanitary conditions.

DISPOSITION: 1-20-65. Consent—claimed by Westco Products Co., Los Angeles, Calif. Segregated; 281 lbs. destroyed.

30193. Mustard seed. (F.D.C. No. 51421. S. No. 17-006 B.)

QUANTITY: 167 100-lb. bags at Los Angeles, Calif.

SHIPPED: 4-26-65, from Great Falls, Mont.

LIBELED: 5-21-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 6-16-65. Default—destruction.

30194. Ground black pepper. (F.D.C. No. 51485. S. No. 56-215 B.)

QUANTITY: 57 unlabeled cases, each containing 24 1-oz. cans, at Crisfield, Md.

SHIPPED: 1-18-65, from New York, N.Y., by Food Trading Corp. of America.

LABEL IN PART: (Can) "Maison Royal Pure Ground Black Pepper * * * Food Trading Corp. of America, N.Y., N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was 4.0 per cent short weight.

LIBELED: 6-11-65, Dist. Md.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 7-28-65. Default—delivered to a charitable institution.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

30195. Carnation instant breakfast. (F.D.C. No. 50001. S. Nos. 50-396/7 A.)

QUANTITY: 440 cases, each containing 12 6-oz. ctns., each ctn. containing 6 individual 1-oz. envelopes of coffee flavor; and 560 cases, each containing 12 6-oz. ctns., each ctn. containing 6 individual 1-oz. envelopes of vanilla flavor, at Grand Rapids, Mich.

SHIPPED: Between 12-23-63 and 4-23-64, from Milwaukee, Wis., by the Carnation Co.

LABEL IN PART: (Ctn.) "6 Individual Envelopes Just Add Milk New! Carnation instant breakfast A Meal In A Glass Ingredients: Nonfat dry milk, sucrose, lactose, contains 0.37% sodium cyclamate (a nonnutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets), stabilizer, vanillin and ethyl vanillin, artificial flavors, ferric pyrophosphate, vitamin A, sodium ascorbate, niacinamide, riboflavin, thiamine mononitrate, basic copper carbonate, and pyridoxine * * * Carnation Company Los Angeles, Calif.," and (envelope) "Coffee Flavor [or "Vanilla Flavor"] Carnation instant breakfast."

LIBELED: 4-24-64, W. Dist. Mich.; libel amended 4-30-64.

CHARGE: 402(b)(1)—when shipped, a valuable constituent of the article, a nutritive sweetener, had been in part omitted; and 402(b)(2)—an article

*See also Nos. 30104, 30114.

sweetened in part by a nonnutritive, artificial sweetener, sodium cyclamate, had been substituted in whole or in part for an article which the food purported to be, whose sweetness was derived from natural sweeteners; 403(a)—the label statements, including the name of the article “instant breakfast” which represented and suggested that the article was an instant breakfast, that it was a meal in a glass, that it provided more protein than two eggs, more energy than two servings of most cereals; that it promoted pep and energy throughout the morning; and that it would promote the appetite of children who won’t eat; which statements were false and misleading, since they were contrary to fact; 403(a)—the label statement “sodium cyclamate (a non-nutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets)” was misleading, since the article also contained the added ordinary sweeteners, sugar and lactose; and 403(a)—the article labeled “vanilla flavor” bore the label statement “Vanilla Flavor,” which statement was false and misleading as applied to an article containing the artificial flavors vanillin and ethyl vanillin.

DISPOSITION: 10-21-64. Default—delivered to a charitable institution for use in the institution and not for sale.

30196. Dietary supplements. (F.D.C. No. 50146. S. Nos. 49-582/4 A.)

QUANTITY: 25 100-capsule btls. of X-Tra-Hi capsules, 23 100-capsule btls. of Magnum Vitamin B Complex capsules, and 11 100-capsule btls. of Vitamin B Complex Special Formula, at Birmingham, Mich., in possession of Vitamin Center.

SHIPPED: 3-4-63 and 10-17-63, from Buffalo, N.Y.

LABELS IN PART: (Btls.) “X-Tra-Hi Geriatric-Therapeutic Fortified with Vitamins A, D, C, B₁₂ and Niacinamide Vitamin-Center Distributors Detroit 31, Michigan Each Capsule contains: * * * Folic Acid USP 0.25 mg. * * * Directions * * * one capsule daily,” “Magnum Therapeutic Vitamin B Complex Fortified With Liver, Iron, Folic Acid, Vitamin C and B₁₂ Vitamin Center Distributors Detroit 31, Michigan * * * Each Capsule Contains * * * Folic Acid 0.25 mg. * * * one capsule daily,” and “Therapeutic Vitamin B Complex A Special Formula Fortified With Liver, Iron, Folic Acid, Vitamin C, Choline, Inositol and B₁₂ Vitamin-Center Distributors Detroit 31, Michigan * * * Each Capsule Contains * * * Folic Acid 0.1 mg. * * * one or two capsules daily.”

RESULTS OF INVESTIGATION: The articles had been shipped in bulk as above and had been repacked by the dealer.

LIBELED: 5-27-64, E. Dist. Mich.

CHARGE: 402(a)(2)(C)—while held for sale, the articles contained the food additive, folic acid, which, in the amount provided by the directed daily intake, was unsafe within the meaning of 409 since it and its use or intended use were not in conformity with a regulation or exemption; 403(a)—statements in the labeling of the articles, (X-Tra-Hi capsules) “Fortified with Vitamins A, D, C, B₁₂ and Niacinamide,” (Magnum Vitamin B Complex) “Fortified with liver, iron, folic acid, vitamin C and B₁₂,” and (Vitamin B Complex Special Formula) “Fortified with liver, iron, folic acid, vitamin C, choline, inositol and B₁₂” were false and misleading in that they exaggerated the nutritional significance of such ingredients in the articles; and 403(a)—the listing on the labels of the articles of the following ingredients, (X-Tra-Hi capsules) choline, inositol and methionine, (Magnum Vitamin B Complex)

desiccated liver, wheat germ oil, choline, inositol, magnesium, manganese, potassium, and zinc, and (Vitamin B Complex Special Formula) desiccated liver, wheat germ oil, choline, inositol, methionine, magnesium, manganese, potassium, and zinc, was false and misleading in that it implied and suggested that the nutritional value of the articles was enhanced by the presence of those ingredients, whereas the nutritional value of the article was not enhanced by the presence of those ingredients in the articles.

DISPOSITION: 8-12-64. Default—destruction.

30197. Dietary supplements. (F.D.C. No. 50562. S. No. 36-312 A.)

QUANTITY: 9 90-capsule btls. and 9 45-capsule btls. at Harlingen, Tex.

SHIPPED: Prior and subsequent to 8-25-63, by Los Angeles Pharmacal Co., from Sun Valley, Calif.

LABEL IN PART: (Btl.) "Uno A Tres Therapeutic Formula Super High Potency Multiple Vitamin and Mineral Dietary Supplement distributed by D'Franssia Laboratories, P.O. Box 44, Los Angeles 53, Calif. * * *Directions for use * * * one to three capsules daily * * * Folic Acid 1 mg."

LIBELED: 9-10-64, S. Dist. Tex.

CHARGE: 402(a)(2)(C)—when shipped, the article contained the food additives, folic acid, iodine, menadione, molybdenum, cobalt, and nickel, which were unsafe within the meaning of 409 since they and their use or intended use were not in accordance with a regulation or exemption in effect; 403(a)—the label statement "The need in human nutrition has not been established," as applied to vitamin B₁₂, vitamin E, calcium pantothenate, manganese, and zinc, was false and misleading, since the need in human nutrition for these ingredients has been established; and 403(a)—the listing in the label of para-aminobenzoic acid, inositol, choline, hesperiden, rutin, and desiccated liver suggested and implied that the nutritional value of the article was significantly enhanced by their presence which suggestions and implications were false and misleading since these ingredients are of no nutritional value for dietary supplementation.

DISPOSITION: 10-16-64. Default—destruction.

30198. Special geriatric capsules and multi-vitamin capsules. (F.D.C. No. 49901. S. Nos. 2-321/2 A.)

QUANTITY: 129 100-capsule btls. of special geriatric capsules, and 95 individually ctnd. 100-capsule btls. of multi-vitamin capsules, at Memphis, Tenn.

SHIPPED: 2-13-64, from Jacksonville, Fla., by Watkins Quality Products.

LABELS IN PART: (Btls.) "Watkins * * * Dietary Food Capsules Special Geriatric Formula Multi-Vitamins With Minerals * * * Vitamins and Minerals In Each Capsule: * * * Folic Acid 0.34 mg. Inositol 20 mg. Biotin 30 mcg. Rutin 10 mg. DL-Methionine 20 mg. Choline Bitartrate 30 mg. Betaine, Anhydrous 10 mg. Liver, Desiccated 100 mg. * * * Potassium (Potassium Sulfate) 6 mg. * * * Magnesium (Magnesium Sulfate) 3 mg. Manganese (Manganese Sulfate) 1 mg. * * * Zinc (Zinc Sulfate) 1 mg. [or "Dietary Food Capsules Multi-Vitamins With Minerals 10 Minerals and 11 Vitamins All In One Capsule * * * Folic Acid 0.25 mg. Calcium (Dicalcium Phosphate) 60 mg. Phosphorus (Dicalcium Phosphate) 46 mg. * * * Potassium (Potassium Sulfate) 6 mg. * * * Magnesium (Magnesium Sulfate) 5 mg. Manganese (Manganese Sulfate) 1.5 mg. * * * Sodium (Sodium Ascorbate) 3 mg. Zinc (Zinc Sulfate) 1 mg."] * * * Distributed by Watkins Products, Inc. Winona, Minnesota."

LIBELED: 3-11-64, W. Dist. Tenn.

CHARGE: Both articles, 402(a)(2)(C)—when shipped, the articles contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

Special geriatric capsules, 403(a)—when shipped, the listing on the label of the following ingredients in the article: inositol, choline, desiccated liver, potassium, betaine, zinc, magnesium, manganese, methionine, rutin and biotin, implied and suggested that the nutritional value of the article was enhanced by the presence of such ingredients, which was false and misleading since the nutritional value of the article was not enhanced by the presence of such ingredients.

Multi-vitamin capsules, 403(a)—when shipped, the listing on the label of the article of the following ingredients in the article: calcium, phosphorus, potassium, magnesium, manganese, sodium and zinc implied and suggested that the nutritional value of the article was enhanced by the presence of the ingredients, which was false and misleading since the nutritional value of the article was not enhanced by the presence of such ingredients; and 403(a)—the carton label contained false and misleading representations that the article was adequate and effective in the treatment and prevention of rundown conditions, listless conditions, feeling of being half alive and lack of energy and pep.

DISPOSITION: 5-15-64. Default—destruction.

30199. Vitamin B complex tablets and iron and vitamin B₁₂ tablets. (F.D.C. No. 50299. S. Nos. 2-356/7 A.)

QUANTITY: 2 cases, each containing 12 100-tablet btls. and 2 cases, each containing 12 250-tablet btls. of vitamin B complex tablets, and 3 cases, each containing 12 180-tablet btls. of iron and vitamin B₁₂ at Jacksonville, Fla.

SHIPPED: Prior to 1962, from N. Hollywood, Calif.

LIBELED: 6-24-64, M. Dist. Fla.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, folic acid, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption.

DISPOSITION: 9-30-64. Default—destruction.

30200. Vitamin and mineral food supplement tablets. (F.D.C. No. 50239. S. No. 57-125 A.)

QUANTITY: 96 pkgs., each pkg. containing 728 mineral tablets and 364 vitamin tablets, at Lincoln, Nebr.

SHIPPED: Between 1-1-63 and 4-30-63, from Beverly Hills, Calif.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 60 percent of declared amount of vitamin A and less than 75 percent of declared amount of vitamin C.

LIBELED: 6-26-64, Dist. Nebr.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin A and vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statement "2 Vitamin Tablets and 4 Mineral Tablets Daily Will Supply: Vitamin A—8000 USP Units—Vitamin C—60 MG." was false and misleading as applied to a product containing less than the declared amount of these ingredients.

DISPOSITION: 8-13-64. Default—destruction.

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Bakery products-----	30101-30103	Halibut, frozen-----	30156
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lupine, dried-----	³ 30179	Hominy grits-----	30105
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pinto, dried-----	¹ 30166,	Lettuce, wild, leaves-----	30183
	30169-30171	Lupine beans, dried-----	³ 30179
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¹ (30111, 30166) Injunction issued.² (30134, 30168, 30184) Prosecution contested.³ (30179) Seizure contested; request for summary judgment.⁴ (30117) Seizure contested.

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² (30134, 30168, 30184) Prosecution contested.⁴ (30117) Seizure contested.

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¹ (30111, 30166) Injunction issued.² (30134, 30168, 30184) Prosecution contested.

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¹ (30111, 30166) Injunction issued.² (30134, 30168, 30184) Prosecution contested.³ (30179) Seizure contested; request for summary judgment.

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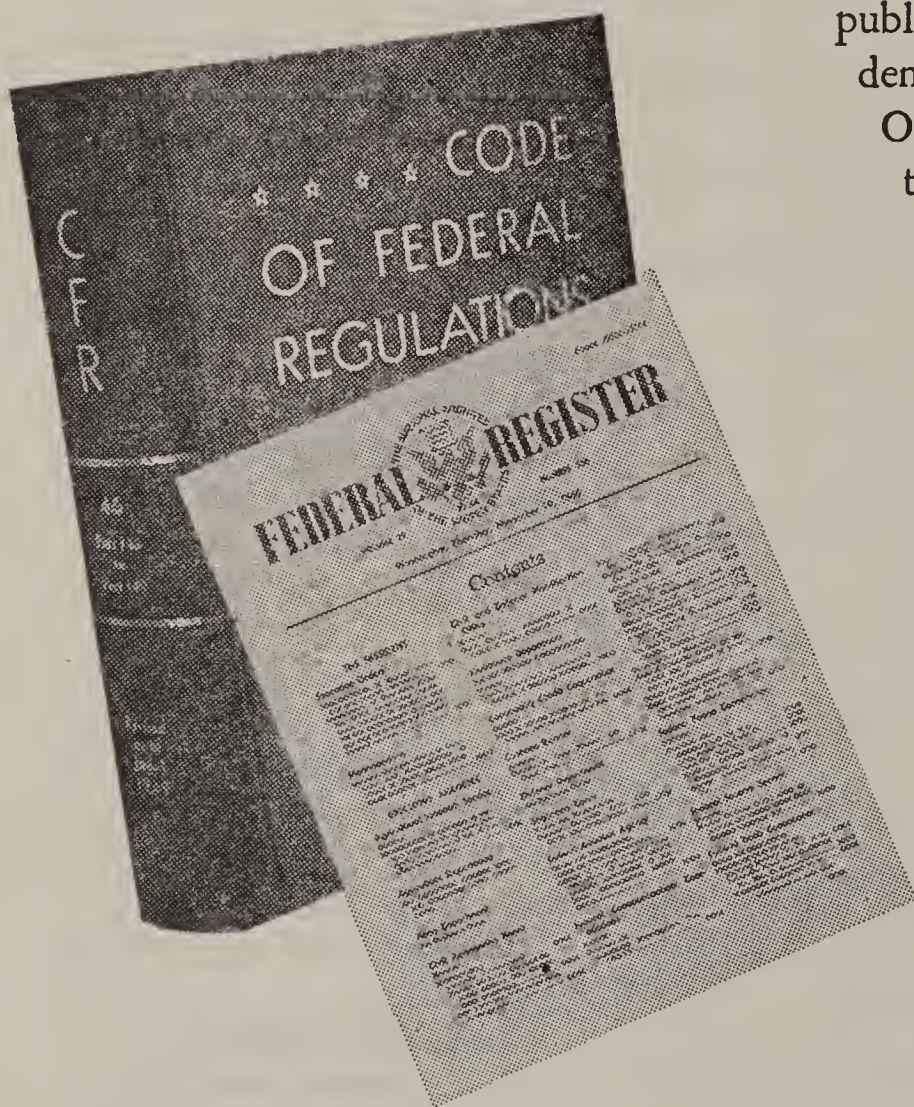
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